

CONSUMER CREDIT TRANSACTION. THIS IS AN ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION OBTAINED WILL BE USED TO COLLECT THIS DEBT.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
Kelly Street Realty, Inc.,
Plaintiff.

100.350
INDEX NO.
FILE NO. 4778

-against-

SUMMONS
Place of Venue is Plaintiff's
place of business:

Laura Marrero,

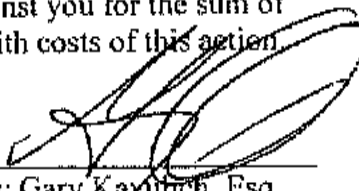
928 Kelly Street
Bronx, NY 10459

Defendant(s)

-----X
To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF
NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand
Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the
time provided by law as noted below and to file an answer to the below complaint with the
clerk: upon your failure to answer, judgment will be taken against you for the sum of
\$23,338.92 with interest thereon from May 1, 2003 together with costs of this action.

DATED: October 22, 2008


By: Gary Kavulich, Esq.,
Kavulich & Associates, P.C.
Attorney for Plaintiff
30 Church Street
Suite 26
New Rochelle, NY 10801
(914) 355-2074

Defendant's Address:

Laura Marrero
2303 Belmont Avenue, Apt. 5
Bronx, NY 10458-8343

Note: The law provides that: (a) If the summons is served by its delivery to you personally
within the City of New York, you must appear and answer within TWENTY days after such
service; or (b) If the summons is served by any means other than personal delivery to you
within the City of New York, you must appear and answer within THIRTY days after proof of
service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$22,838.92 representing rental arrears for the months of May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly sum of \$1,306.66 for the premises known as 928 Kelly Street, Apt.#1 Bronx, NY 10459 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$0.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$22,838.92 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of 0.000 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

TRANSACCION DE CREDITO DEL CONSUMIDOR IMPORTANTE!! UD. HA SIDO DEMANDADO! ESTE ES UN DOCUMENTO LEGAL-UNA CITACION! NO LA BOTE!! CONSULTE CON SU ABOGADO ENSEGUIDA! LE PUEDEN QUITAR PARTE DE SU SALARIO (EMBARGARLO). ISI UD. NO SE PRESENTA EN LA CORTE CON ESTA CITACION LE PUEDEN CONFISCAR SUS BIENES (PROPIEDAD) Y PERJUDICAR SU CREDITO!! TAMBIEN ES POSIBLE QUE TENGA QUE PAGAR TODOS LOS GASTOS LEGALES (COSTOS)! SI UD. NO TIENE DINERO PARA UN ABOGADO TRAIGA ESTOS PAPELES A LA CORTE INMEDIATAMENTE. VENGA EN PERSONA Y EL SECRETARIO LA CORTE LE AYUDARA.

COURTE CIVIL DE LA CUIDAD DE NUEVA YORK,
Condado de Bronx

Indice #
Claim # 4778

Kelly Street Realty, Inc.,

Demandante.

CITATION
La razon de haber designado
Esta Corte es:
928 Kelly Street
Bronx, NY 10459

-contra-

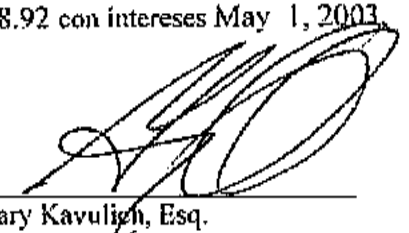
Laura Marrero,

Demandado(s).

-----X
Al demandado arriba mencionado:

USTED ESTA CITADO a comparecer en la Corte Civil de la Ciudad de Nueva York, Condado de Bronx a la oficina del Jefe Principal de dicha Corte en 851 Grand Concourse, Bronx, NY 10451, in the COURTE CIVIL DE LA CUIDAD DE NUEVA YORK, NY en el Condado de Nueva York Ciudad y Estado de Bronx, dentro del tiempo provisto por la ley segun abajo indicado y presentar respuesta a la Demanda junta al Jefe de la Corte, si usted no comparece a contestar, se dictara juicio en contra suya en la suma de \$23,338.92 con intereses May 1, 2003 incluyendo los costos de esta causa.

Fechado: October 22, 2008


By: Gary Kavulich, Esq.
Kavulich & Associates, P.C.
30 Church Street, Suite 26
New Rochelle, NY 10801
914-355-2074

Defendant's Address

Laura Marrero
2303 Belmont Avenue Apt. 5
Bronx, NY, 10458-8343

Nota: La ley provee que: (a) Si esta citacion es entregada a usted personalmente en la Ciudad de Nueva York, usted debe comparece y responder dentro de Viente dias despues de la entrega, (b) Si esta citacion es entregada a otra persona que no fuera usted personalmente, o si fuera entregada afuera de la Ciudad de Nueva York, o por medio de publicacion, o por otros medios que no fueran entrega personal a usted en le Ciudad de Nueva York, usted tiene Treinta dias para comparecer y responder la demanda, despues de haberse presentado prueba de entrega de a citacion al Jefe de esta Corte.

COMPLAINT

PRIMERA ACCIÓN: el Demandante procura recuperar daños del demandado (s) para la violación de un acuerdo de arriendo en la suma de \$22,838.92 dólares que representan atrasos de alquiler para los meses del equilibrio May, 2003 balance of \$625.70; dólares; June, 2003 a través de e incluso October, 2004 en la suma mensual concordada de \$1,306.66 local conocido come 928 Kelly Street #1 Bronx, NY 10459 juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional como el tribunal puede juzgar sólo.

SEGUNDA ACCIÓN: el Demandante procura recuperar daños del demandado en la suma de \$ 0 dólares que representan daños juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional cuando el Tribunal puede juzgar sólo.

TERCERA ACCIÓN: el Demandante procura recuperar daños del demandado en la suma de \$ 500.00 dólares que representan honorarios de abogados razonables juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional cuando el Triunal puede juzgar sólo.

POR QUE, el Demandante exige el juicio (A) en la Primera Acción, en la suma de \$22,838.92 Dólares más el interés a partir del May 1, 2003 juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional cuando el Tribunal puede juzgar sólo, (B) en la Segunda Acción, en la suma de \$0 dólares más el interés el 1 de May 1, 2003 juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional come el Tribunal pueden juzgar sólo, (C) en la Tercera Acción, en la suma de \$500.00 dólares más el interés el juntos con gastos y desembolsos de esta acción y para tal otro alivio y adicional cuando el Tribunal puede juzgar solo.

El Demandante en Esta Accion no esta obligado a ser licenciado por el Departamento de asuntos de Consumidor de la Ciudad de Nueva York.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
Filed: _____

Attorneys: Kavulich & Associates, P.C.

Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

KELLY STREET REALTY INC.,

vs.

LAURA MARRERO,

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41p.m.

At: 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458 served the within Summons and Complaint on: LAURA MARRERO, Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient: deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion
Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.

Affixing to Door ☒ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☒ dwelling house (place of abode) within the state

Mail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1st Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.

On the 7th day of November, 2008 at 4:20p.m.

On the 8th day of November, 2008 at 6:41p.m.

Description A description of the Defendant, or other person served on behalf of the Defendant

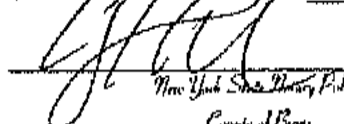
☐ Sex: _____ Color of skin: _____ Color of Hair: _____ Age: _____ Height: _____ Weight: _____

Military Svce ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.

Sworn to before me on this 10 day of 11/08

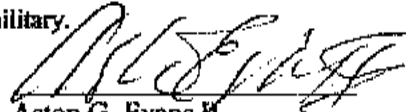

New York State Notary Public

County of Bronx

Cheryl Marsh

Exp. No. 01911-40082816

Commission Expires June 5, 2010


Aston G. Evans II
LIC# 1220069

AFFIDAVIT OF SERVICE

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08

Filed: _____

Attorneys: Kavulich & Associates, P.C.

Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

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vs.

LAURA MARRERO,

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41 p.m.

At: 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458 served the within Summons and Complaint on: LAURA MARRERO. Defendant therein namedIndividual ☐ By delivering a true copy of each to said recipient: deponent knew the person served to be the person described as said person therein.Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the CorporationSuitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.Affixing to Door ☒ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☒ dwelling house (place of abode) within the stateMail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1st Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.On the 7th day of November, 2008 at 4:20p.m.On the 8th day of November, 2008 at 6:41p.m.

Description A description of the Defendant, or other person served on behalf of the Defendant

☐ Sex: _____ Color of skin: _____ Color of Hair: _____ Age: _____ Height: _____ Weight: _____Military Svc ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.Sworn to before me on this 10 day of 11/08Aston G. Evans II
LIC# 1220069

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

INDEX NO. 100350/08

Kelly Street Realty, Inc.,

FILE NO. 4778

PLAINTIFF(S)

JUDGMENT

-AGAINST-

Laura Marrero

928 Kelly Street
Bronx, NY 10459

DEFENDANT(S)

AMOUNT CLAIMED LESS PMTS ON ACCT.
INTEREST FROM 5/1/2003

\$22,838.92

\$10,319.75

\$33,158.67

COSTS BY STATUTE

\$50.00

SERVICE OF SUMMONS AND COMPLAINT

\$25.00

FILING OF SUMMONS AND COMPLAINT

\$45.00

PROSPECTIVE MARSHALL'S FEE

\$40.00

NOTICE OF INQUEST

\$0.00

TRANSCRIPT & DOCKETING

\$0.00

\$160.00

TOTAL \$33,318.67

STATE OF NEW YORK, COUNTY OF WESTCHESTER:

THE UNDERSIGNED, ATTORNEY AT LAW OF THE STATE OF NEW YORK, ON OF THE ATTORNEY(S) OF RECORD FOR THE PLAINTIFF(S) IN THE ABOVE ENTITLED ACTION, STATES THAT THE DISBURSEMENTS ABOVE SPECIFIED HAVE BEEN OR WILL NECESSARILY BE MADE OR INCURRED THEREIN AND ARE REASONABLE IN AMOUNT: UPON FAILURE TO ANSWER, THE TIME OF THE DEFENDANT TO APPEAR AND ANSWER HEREIN HAS EXPIRED AND THE SAID DEFENDANT HAS NOT APPEARED AND ANSWERED HEREIN. THE UNDERSIGNED AFFIRMS THIS STATEMENT TO BE TRUE UNDER THE PENALTIES OF PERJURY.

DATED: WESTCHESTER, NY

2/12/2009

KAVULICH & ASSOCIATES, P.C.

BY: GARY KAVULICH, ESQ.

30 CHURCH STREET, SUITE 26

NEW ROCHELLE, NY 10801

JUDGMENT ENTERED ON

SERVICE OF SUMMONS AND COMPLAINT IN THIS ACTION ON THE DEFENDANT(S)

HEREIN HAVING BEEN COMPLETED ON 12/27/2008 WITHIN THE CITY OF NEW YORK ON THAT DAY AND MORE THAN 20 DAYS

HAVING ELAPSED.

BY FILING ON SAID DAY OF PROOF OF THE SERVICE THEREOF BY SUBSTITUED SERVICE ON DEFENDANT(S) AND MORE THAN 30 DAYS HAVING ELAPSED SINCE THE DAY OF COMPLETION OF SERVICE AND THE TIME OF SAID DEFENDANT(S) TO APPEAR AND ANSWER HAVING EXPIRED, AND

NOW ON MOTION OF KAVULICH & ASSOCIATES, P.C. ATTORNEY(S) FOR THE PLAINTIFF(S) IT IS, ADJUDGED THAT

Kelly Street Realty, Inc.

RESIDING AT: 928 Kelly Street Bronx, NY 10459

RECOVER OF Laura Marrero

RESIDING AT: 2303 Belmont Avenue Apt. 5 Bronx, NY 10458-8343

THE SUM OF \$22,838.92 WITH INTEREST OF \$10,319.75 MAKING A TOTAL OF \$33,158.67, TOGETHER WITH \$160.00 COSTS AND DISBURSEMENTS, AMOUNTING IN ALL TO THE SUM OF \$33,318.67 AND THAT PLAINTIFF HAVE EXECUTION THEREFORE.

SECOND AND THIRD CAUSES OF ACTION ARE HEREBY WAIVED.

CLERK

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,

PLAINTIFF(S)

AGAINST

AFFIDAVIT OF FACTS
CONSTITUTING THE CLAIM
THE DEFAULT AND THE
AMOUNT DUE

Laura Marrero

DEFENDANT(S)

STATE OF NEW YORK COUNTY OF WESTCHESTER

SS: GARY KAVULICH, ESQ. HEREBY DEPOSES AND SAYS UNDER THE PENALTIES OF PERJURY, THAT DEPONENT IS THE ATTORNEY FOR THE PLAINTIFF(S) IN THE WITHIN ACTION; THIS ACTION WAS COMMENCED BY SUBSTITUED SERVICE OF THE SUMMONS AND COMPLAINT UPON DEFENDANT(S) AND IS AN ACTION FOR RENT DUE AND OWING FOR (AFTER APPLICATION OF PAYMENT AND SECURITY DEPOSIT)

May, 2003 balance of \$625.70

June, 2003 \$1,306.66

July, 2003 \$1,306.66

August, 2003 \$1,306.66

September, 2003 \$1,306.66

October, 2003 \$1,306.66

November, 2003 \$1,306.66

December, 2003 \$1,306.66

January, 2004 \$1,306.66

February, 2004 \$1,306.66

March, 2004 \$1,306.66

April, 2004 \$1,306.66

May, 2004 \$1,306.66

June, 2004 \$1,306.66

July, 2004 \$1,306.66

August, 2004 \$1,306.66

September, 2004 \$1,306.66

October, 2004 \$1,306.66

AT THE AGREED MONTHLY RENTAL OF \$1,306.66

ALL OTHER CAUSES OF ACTION ARE HEREBY WAIVED AND DISPOSED. AFTER A COMPLETE AND THOROUGH INVESTIGATION THE DEFENDANT IS FOUND NOT TO BE IN THE MILITARY AND RESIDES WITHIN THE CITY OF NEW YORK. RENT WAS NOT PAID BY ANY OTHER SOURCE. I MAKE THIS AFFIRMATION UPON INFORMATION AND BELIEF, A BELIEF PREDICATED UPON CONVERSATIONS WITH MY CLIENT, MY INVOLVEMENT IN THE PROCEEDING AND READING THE FILE IN THIS CASE.

SECOND AND THIRD CAUSES OF ACTION ARE HEREBY WAIVED.

WHEREFORE DEPONENT DEMANDS JUDGMENT AGAINST DEFENDANT(S) FOR \$22,538.92 WITH INTEREST FROM 5/1/2003 TOGETHER WITH COSTS AND DISBURSEMENTS OF THE ACTION.

KAVULICH & ASSOCIATES, P.C.
BY: GARY KAVULICH, ESQ.
30 CHURCH STREET, SUITE 26
NEW ROCHELLE, NY 10801

TO THE DEFENDANT(S): PLEASE TAKE NOTICE THAT THE WITHIN IS A TRUE COPY OF A JUDGMENT MADE AND ENTERED IN THE WITHIN ENTITLED ACTION AND DULY FILED IN THE OFFICE OF THE CLERK OF THE COURT ON

DATED: WESTCHESTER, NY
2/12/2009

YOURS, ETC.,
ATTORNEYS FOR PLAINTIFF

STATE OF NEW YORK, COUNTY OF

SS:

BEING DULY SWORN, DEPOSES AND SAYS; THAT DEPONENT IS NOT A PARTY TO THE ACTION, IS OVER 18 YEARS OF AGE AND RESIDES IN

THAT ON DEPONENT SERVED A TRUE COPY OF THE WITHIN JUDGMENT AND NOTICE OF ENTRY THEREOF (EACH OF) THE FOLLOWING NAMED DEFENDANT(S) AT THE ADDRESS(ES) INDICATED (FOR EACH):

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,

INDEX NO. 100350/08

PLAINTIFF(S)

-AGAINST-

AFFIDAVIT OF
MAILING OF ADDITIONAL
NOTICE OF SUIT

Laura Marrero

DEFENDANT(S)

STATE OF NEW YORK)
COUNTY OF WESTCHESER) SS:

GARY KAVULICH, ESQ., BEING DULY SWORN HEREBY DEPOSES AND SAYS:

- 1 I AM THE ATTORNEY FOR THE PLAINTIFF(S) HEREIN.
2. THE ABOVE ENTITLED ACTION IS AGAINST A NATURAL PERSON AND IS BASED UPON NON PAYMENT OF A CONTRACTUAL OBLIGATION.
3. ON 11/25/2008, I MAILED A COPY OF THE SUMMONS AND COMPLAINT IN THE ABOVE ENTITLED ACTION BY DEPOSITING THE ENVELOPE IN AN OFFICIAL DEPOSITORY UNDER THE EXCLUSIVE CARE AND CUSTODY OF THE U.S. POSTAL SERVICE WITHIN NEW YORK STATE. SAID MAILING WAS BY FIRST CLASS MAIL IN A POSTPAID ENVELOPE, PROPERLY ADDRESSED TO THE DEFENDANT(S), THE ENVELOPE BORE THE LEGEND "PERSONAL & CONFIDENTIAL" AND THERE WAS NO INDICATION ON THE OUTSIDE OF THE ENVELOPE THAT THE COMMUNICATION WAS FROM AN ATTORNEY OR CONCERNED AN ALLEGED DEBT. AT DEFENDANT(S):

~~X~~ LAST KNOWN ADDRESS AT: Laura Marrero: 2303 Belmont Avenue Apt. 5 Bronx, NY 10458-8343

-----PLACE OF EMPLOYMENT AT:

THE ENVELOPE BORE THE LEGEND "PERSONAL & CONFIDENTIAL" AND THERE WAS NO INDICATION ON THE OUTSIDE OF THE ENVELOPE THAT THE COMMUNICATION WAS FROM AN ATTORNEY OR CONCERNED AN ALLEGED DEBT.

-----A KNOWN ADDRESS OF THE DEFENDANT AT:

THIS ADDRESS IS NOT THE RESIDENCE OR PLACE OF EMPLOYMENT OF THE DEFENDANT.

THE AFOREMENTIONED MAILING:

~~X~~ HAS NOT BEEN RETURNED UNDELIVERABLE BY POSTAL SERVICE.

-----WAS RETURNED UNDELIVERABLE BY POSTAL SERVICE AND WAS RE-SENT TO THE DEFENDANT AT:

SWORN TO BEFORE ME

ON THIS 30 DAY OF Dec., 2008

FRANK G. BUGLIONE

Notary Public, State of New York

No. 0280507150

Qualified in Westchester Co.

Commission Expires January 21, 2011

GARY KAVULICH, ESQ.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,

PLAINTIFF,

-AGAINST-

Laura Marrero,

DEFENDANT(S)

INDEX NO:
FILE NO: 4778

AFFIRMATION OF FACTS
CONSTITUTING THE
AMOUNT DUE

Anto Lulaj

hereby deposes and says under the penalties of perjury, ss:

That deponent is the managing agent of Kelly Street Realty, Inc., Plaintiff in the within action; this action was commenced by substituted service of the summons and complaint upon defendant(s) and is an action for breach of a lease agreement in the amount of \$22,838.92 for the months May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly rental amount of \$1,306.66 per month; (after application of security and after application of payments) no part having been paid, although duly demanded. All other causes of action are hereby waived and disposed of. After a complete and thorough investigation, as I have been informed by Plaintiff's counsel, the defendant(s) is/are found not to be in the military and reside(s) in the City of New York. Rent was not paid by any other source. I make this affirmation upon personal knowledge.

WHEREFORE, Plaintiff demands judgment against defendant for \$22,838.92 with interest from May 1, 2003 together with costs and disbursements of the action.

Dated: 10/22/2008

Sworn to before me
on this 3 day of November 2008

Notary Public

Anto Lulaj

17, 2009

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,

Plaintiff,

-against-

Laura Marrero

Defendant(s).

Index No. 100350/08
File No. 4778

AFFIDAVIT OF
INVESTIGATOR

STATE OF NEW YORK)
)SS.:
COUNTY OF NEW YORK)

I am over 18 years of age, am not a party to this action and reside in Westchester County, State of New York.

I have been requested by Kavulich & Associates, P.C. attorney for the Plaintiff, to make an investigation to ascertain if the Defendant(s) Laura Marrero is at the present time in military service for the purpose of entry of judgment.

On February 12, 2009, I Denise Miranda, contacted the Defense manpower Data Center concerning the Defendant Laura Marrero military status.


I inputted the social security number, as provided by the Defendant, into the Defense Manpower Data Center.

Under the Defendant's social security number I received an affidavit from the Defense Manpower Data Center stating that the said Defendant is not currently in the military service of the United States and the State of New York (National Guard).


Denise Miranda

Sworn to before me this
16 Day of *Feb*, 2009

Notary Public


FRANK G. BUGLIONE
Notary Public, State of New York
No. 02BU5071950
Qualified in Westchester County
Commission Expires January 21, 2011

Department of Defense Manpower Data Center

FEB-12-2009 11:38:21



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

< Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
MARRERO	LAURA	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USC Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenselink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID: ELTQRUZKAX

Bronx County Civil Court
CIVIL JUDGMENT

Plaintiff(s):
KELLY STREET REALTY INC.

vs.

Defendant(s):
LAURA MARRERO

Index Number: CV-100350-08/BX

Judgment issued: On Default

On Motion of:

KAVULICH & ASSOCIATES, P.C.
30 CHURCH STREET, SUITE 26, NEW
ROCHELLE, NY 10801-

Amount claimed	\$22,838.92	Cost By Statute	\$50.00	Transcript Fee	\$0.00
Less Payments made	\$0.00	Index Number Fee	\$45.00	County Clerk Fee	\$0.00
Interest	\$10,319.75	Service Fee	\$25.00	Enforcement Fee	\$40.00
Attorney fees	\$0.00	Non Military	\$0.00	Other Disbursements	\$0.00
		Notice of Trial	\$0.00	Other Costs	\$0.00
		Jury Demand	\$0.00		
Total Damages	\$33,158.67	Total Costs & Disbursements	\$160.00	Judgment Total	\$33,318.67

The following named parties, addressed and identified as creditors below:

Plaintiff creditor(s) and address

(1) KELLY STREET REALTY INC.
928 KELLY STREET, BRONX, NY 10459-

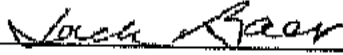
Shall recover of the following parties, addresses and identified debtors below

Defendant debtor(s) and address

(1) LAURA MARRERO
2303 BELMONT AVENUE, APT 5, BRONX, NY 10458-

Judgment entered at the Bronx County Civil Court, 851 Grand Concourse, Bronx, NY 10451, in the STATE OF NEW YORK in the total amount of \$33,318.67 on 02/26/2009 at 11:05 AM.

Judgment sequence 1


Jack Baer, Chief Clerk Civil Court

Civil Court of the City of New York
County of Bronx

Index Number CV 100350-08 BX

Part 34

Kelly Street Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Marrero

Defendant(s)/Respondent(s)

DECISION/ORDER

Defendant moves the Court seeking to vacate the default judgment entered against her.

Defendant argues that she never received notice of the lawsuit and that she vacated the ~~apartment~~ subject premises due to a fire which resulted in her being placed in an emergency shelter by the Red Cross and being ultimately relocated.

Defendant further argues that she does not owe the debt in question because the tenancy at issue was subsidized by Section 8.

Plaintiff opposes the motion on the ground that defendant knowingly disregarded executive measures and lacks an excusable default and meritorious defense.

It is well-settled that Courts favor disposition on the merits. While the Court is not overburdened by the length of time which has

Date

Judge, Civil Court

Civil Court of the City of New York

County of Bronx

Part 34

Index Number CV 100350-08 BX

Kelly Street Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Marrero

Defendant(s)/Respondent(s)

DECISION/ORDER

elapsed since the judgment was entered, serious questions are raised regarding ~~the~~ whether the debt here, to wit, Rental arrears, are attributable to the defendant. Aside from the obvious troubling issue of a fire allegedly decimating the subject premises, Section 8 Rules prohibit the tenant being charged for more than his/her "tenant-share" of the rent.

Accordingly, the Court is satisfied that the defendant has come forward with an excusable default and meritorious defense to warrant granting the instant order to show cause.

The judgment is vacated and any and all income or wage garnishments, bank restraints and executions, sheriff or Marshal levies are vacated. Any monies collected in connection with the judgment shall be returned forthwith.

The answer annexed to the defendant's order to show cause

Date

Judge, Civil Court

Civil Court of the City of New York

County of Bronx

Part 34

Index Number CV 100350-08 Bx

Kelly Strut Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Marrero

Defendant(s)/Respondent(s)

DECISION/ORDER

is deemed filed and interposed in this matter and the
defendant may amend same within 30 days of the date of
this order.

The matter is restored to the calendar for a pre-trial
conference July 8, 2015 at 9³⁰ A.M. Defendant is to subpoena
Section 8.

Defendant shall serve a copy of this order with notice of entry
within 10 days by 1st class mail with certificate of mailing.

This constitutes the decision and order of the Court.

**ENTERED
BRONX COUNTY**

MAY 12 2015

**Civil Court
of the
City of New York**

5/7/15

Date

[Signature]
Judge, Civil Court

HON. VERONICA L. SAUNDERS

34
1
DIY

Civil Court of the City of New York
County of Bronx

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

Index Number: CV-100350-08/BX



ORDER TO SHOW CAUSE

To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and process herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:
Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

on or before March 16th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Plff),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Saunders, Civil Court Judge (NYC)

HON. VERNA SAUNDERS

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

**AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer**

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

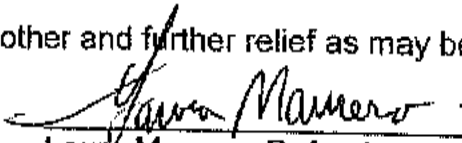
1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.

6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS GARNISHMENT HAS PUT A FINICAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALIED BARTON SECURITY SERVICES LLC ATTN PAYROLL 161 WASHINGTON ST STE 600 8 TOWER BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacatur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Proposed Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.


Laura Marrero, Defendant

Sworn to before me this _____ day
of MAR 10 2015


Notary Public or Court Clerk

<input checked="checked" type="checkbox"/>	I.D. Presented Type: <u>NYS DC</u>
<input type="checkbox"/>	No I.D. Provided

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality inc,
Plaintiff,

– against –

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

**PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION**

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

VERIFICATION

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Laura Marrero
Laura Marrero, Defendant

Sworn to before me this MAR 10 2015 day

of _____, 20____

Amber Acc
Notary Public or Court Clerk

<input checked="" type="checkbox"/> I.D. Presented Type: <u>MSDL</u>
<input type="checkbox"/> No I.D. Provided



NEW YORK CITY MARSHAL
Stephen W. Biegel

109 West 38th Street, Suite 200 • New York, NY 10018
Phone: (212) MARSHAL (627-7425) • Fax: (212) 398-2000
MarshalBiegel@aol.com • www.NewYorkCityMarshal.com
October 22, 2012

ALLIED BARTON SECURITY SERVICE
LLC ATTN PAYROLL
161 WASHINGTON ST
STE 600 8 TOWER BRDG
CONSHOHOCKEN PA 19428

367084-NY BW2

OCT 24 2012

JUDGMENT CREDITOR
KELLY STREET REALTY INC

VS.
LAURA MARRERO
[REDACTED] 875
JUDGMENT DEBTOR

INCOME EXECUTION - NOTICE OF LEVY PURSUANT TO SEC. 5231 OF THE CPLR

Please take notice that the enclosed Income Execution is a levy on the salary, wages, earnings, commissions, etc of the Judgment Debtor (your employee) and that you are required to immediately deduct and remit 10% of the debtor's gross salary, wages, earnings, commissions, etc.

Keep the Income Execution for your files. If there is a prior Income Execution against the Judgment Debtor, keep this one on file until completion of the prior and then start remitting on this Income Execution. If the employee resigns and later is rehired, the Income Execution is still in effect unless the Marshal advises you to the contrary in writing.

Please include the judgment debtor's name and the docket # below to receive proper credit.

MARSHAL'S DOCKET # G4150

JUDGMENT	\$33,318.67
STATUTORY MARSHAL FEES	\$20.00
POUNDRAGE	\$2,216.47
EXPENSE	\$12.39
FILING FEE	\$0.00
INTEREST TO DATE	\$10,978.44
TOTAL	\$46,545.97

In addition, interest from 10/22/12, will be calculated and when payments approach completion, you will be notified of the final balance due. Please fill out and return the attached form:

(SND SRVSL)

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Court Index No. 100350/08
File No. 4778.0

Kelly Street Realty, Inc.,

Plaintiff

Against

Laura Marrero,

Defendant(s).

INCOME EXECUTION

**The People of the State
of New York**

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within court:

Court of Original Entry	Entry Date	Original Amount	Amount Due	Plus Interest From
CIVIL COURT OF THE CITY OF NEW YORK AM COUNTY OF BRONX	2/26/2009 12:00:00 AM	\$33,318.67	\$33,318.67	2/26/2009 12:00:00

The judgment was recovered against Laura Marrero
And transcribed with the county clerk(s) of Bronx

defendant (judgment debtor)

defendant (judgment debtor)

WHEREAS, this execution is issued against Laura Marrero
whose last known address is: 2303 Belmont Avenue
Apt. 5 Bronx, NY 10458-8343
and said defendant (judgment debtor) is receiving or will receive from the Employer whose name and address is:
Allied Barton Security Services LLC 161 Washington Street, Ste. 500 & Tower Bridge
Conshohocken, PA 19428 ATTN: Payroll

More than \$
Title or position
No

per week, to wit \$
Soc. Sec. and/or pension No.

to be paid weekly installment of \$
Bureau Office or Subdivision

each
Buck

9875

You are directed to satisfy the judgment with interest together with your fees and expenses, out of all monies now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR § 5231 d 15 U.S.C 1671, et. Seq
Direction to Judgment Debtor: You are notified and commanded within 20 days to start paying to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in I. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Officer.
Direction to the Employer: You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in I. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expenses of this Income Execution are fully paid and satisfied.

Dated
9/26/2012

Gary Kavulich Esq.
Kavulich & Associates, P.C.
181 Westchester Avenue, Suite 500C
Port Chester, NY 10573
(914) 355-2074

- * "Employer," herein, includes any payor of money to Judgment Debtor.

Important Statement

This income execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rules § 5231 and 15 United State Code § 1671 et seq.

I. Limitation on the amount that can be withheld

- A. An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (10%) of the judgment debtor's gross income.

- B. If a judgment debtor's weekly disposable earnings are less than thirty (30) times the current federal minimum wage (\$5.85 per hour), or \$175.50* No deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot be reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$5.85* per hour), or \$175.50* under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's disposable earnings, no deduction can be made from the judgment debtor's earnings under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any orders for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount, which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. Explanation of Limitations

Definitions

Disposable Earnings - Disposable earnings are that part of an individual's earnings left after deducting those amounts that are required to be withheld (for example, taxes, social security and unemployment insurance, but not deduction for union dues, insurance fees, etc.)

Gross Income - Gross income is salary, wages or other income, including any and all overtime earnings, commissions, and income from trusts, before any deductions are made from such income.

Illustrations regarding earnings

If disposable earnings is:

- | | |
|---|---|
| (a) 30 times federal minimum wage (\$175.50*) or less | Amount to pay or deduct from earnings under this income execution is:
No payment or deduction allowed |
| (b) More than 30 times federal minimum Wage (\$175.50*) and less than 40 times federal minimum wage (\$234.00*) | The less of the excess over 30 times the federal minimum wage (\$175.50*) in disposable earnings, or 10% of gross earnings. |
| (c) 40 times the federal minimum wage (\$234.00*) or more | The less of 25% of disposable earnings or 10% of gross earnings. |

III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR § 5231 (g) and CPLR § 5240

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment.

If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged.

CPLR § 5231 (g) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

CPLR § 5240 Modification or protective order: supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure. Including the use of income executions.

*Based upon \$4.25 minimum hourly wage. Recalculate and insert correct figures if the minimum hourly wage changes.

Endorsement:

Date and Time execution received:

Installments paid to _____ have satisfied the judgment to the extent of \$ _____

Principal and \$ _____ interest. _____

Return to the judgment creditor or his attorney on _____ Levying officer _____ County _____

Find garnishee in the county. _____ because of inability to

Levying officer _____ County _____

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

-against-

**AFFIRMATION IN
OPPOSITION**

LAURA MARRERO,

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Court of the State of New York, hereby affirms under the penalty of perjury:

1. I am an associate of Kavulich & Associates, P.C., attorneys for the Plaintiff herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated upon information and belief, as to those matters I believe them to be true. The basis of my belief is information supplied to me by my client, information contained within the court file and information maintained within my office.

2. I make this affirmation in opposition to the Defendant VERONICA MORENO's Order to Show Cause which seeks to vacate the instant judgment issued on default. Please see Respondent's instant Order to Show Cause and Proposed Answer annexed hereto as Exhibit "1."

STATEMENT OF THE UNDISPUTED FACTS

1. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit I, Bronx, New York, Plaintiff's building. Annexed hereto as Exhibit "2" is the affidavit of Anto Lulaj, agent of Plaintiff.

2. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

3. Almost immediately thereafter, Defendant began to accumulate rental arrears.

4. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.

5. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

3. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

4. Defendant was served with a summons and complaint via conspicuous service on November 8, 2008. Annexed hereto as Exhibit "3" is a copy of the summons, complaint, and affidavit of service.

5. The Plaintiff had not been contacted by the Defendant since they vacated the subject premises and until many years after she was notified by the wage garnishment that was issued by your affirment's office. Annexed hereto as Exhibit "4" is a copy of the income execution.

6. Defendant now moves to vacate the default judgment issued on February 26, 2009.

**THE DEFENDANT'S INSTANT MOTION DOES NOT DEMONSTRATE AN
EXCUSABLE DEFAULT AND MERETORIOUS DEFENSE. THEREFORE THE
MOTION SHOULD BE DENIED**

7. In order to prevail on this instant motion, Defendant must prove both an excusable default *and* meritorious defense as upon showing of both of those prongs, vacating a default judgment is proper. CPLR 5051(a)(1); *Bank of Am. v. Faracco*, 89 AD3d 879 [2d Dep't 2011]; *Community Preserve. Corp. v. Bridgewater condominiums, LLC.*, 89 AD3d 784 [2d Dep't 2011].

8. Moreover, should Defendant demonstrate a reasonable excuse for the default, a Court must nonetheless uphold the default judgment when the Respondent's papers submitted in support thereof are replete with self-serving, vague, unsubstantiated denials, and unsupported

legal conclusions. *Thapt v. Lutheran Med. Ctr.*, 89 AD3d 837 [2d Dep't 2011]; *Garal Wholesalers, Ltd. v. Raven Brands, Inc.*, 82 AD3d 1041 [2d Dep't 2011].

9. It is respectfully stated to the Court that Defendant has failed to demonstrate both prongs and that this motion must be denied.

10. Defendant alleges that she was not served with the summons and complaint, however she offers no support for this such as an explanation of where she was living at the time or a suggestion as to how process did not end up in her possession.

11. A process server's affidavit constitutes prima facie evidence of proper service pursuant to CPLR 308(4). *City of New York v. Miller*, 2010 NY Slip Op 03059 (2d Dep't 2010).

12. Defendant's self-serving and conclusory statements are insufficient to rebut the presumption of service.

13. Moreover, Defendant alleges that she was "burned out of this residence."

14. Again, without support or even an iota of specificity as to when this purported fire took place, and what happened during the fire requiring Defendant's vacature.

15. In fact, Defendant vacated the apartment due to the commencement of a housing court case as a result of her failure to pay rent. Please see the aforementioned Exhibit "2."

16. Accordingly, Defendant fails to set forth a legally cognizable meritorious defense and reasonable excuse for her default.

DEFENDANT IS CHARGED WITH NOTICE OF THE INSTANT LITIGATION SUCH THAT HER APPLICATION IS UNTIMELY AS A MATTER OF LAW

17. CPLR 317 requires an applicant seeking to vacate a default judgment to have an application within one year of knowing of the judgment.

18. A New York City Civil Court, in a case on point applying CPLR 317 and involving a judgment-debtor's Order to Show Cause pursuant to CPLR 5051 seeking vacatur of a default judgment after ignoring an income execution of twenty-months - denied the judgment-debtor's

application. *Elite Recovery Services, Inc. v. R. Howard Helrich*, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

19. In denying the judgment-debtor's application for vacatur, the Court discussed its rationale as follows:

Defendant has not set forth any excuse as to why he ignored an income execution against his wages for twenty-months. The execution went into effect in June 2009 and defendant did not make this motion until February 2011. It is not credible that the defendant did not have either actual or constructive knowledge of the litigation as he had been having his wages garnished for over a year. As noted above, the policy of this court is to try to have all cases decided on the merits. However, the justice system assumes that people will act to challenge a judgment wrongfully entered against them within a reasonable amount of time after obtaining notice of it and that they will act in an expeditious manner to address such a situation. The actions of the defendant do not even approach "diligence" let alone "due diligence."

Id. at *4.

20. Here, Defendant was served with an income execution on September 26, 2012.

21. As a result, her income was continuously garnished from **December 5, 2012** (the first payment) through to the service of the instant Order to Show Cause on or about **March 10, 2015** – over two years.

22. In fact, Defendant states that she "never found out about this until I started being garnished from my pay check" Please see the aforementioned Exhibit "1." (emphasis added).

23. Defendant admits knowing about the garnishment the day it began, yet waited over two years to make the instant application which, as held in *Elite Recovery*, is not even close to due diligence as required by CPLR 317.

24. Therefore, even assuming *arguendo* that the Defendant offers an excusable default and meritorious defense, the Defendant's failure to address her default in almost 2 years combined

with her knowing disregard for the aforementioned execution measures should not be countenanced.

25. As such, Defendant's Order to Show Cause should be denied as untimely pursuant to CPLR 317.

WHEREFORE, as no legal or equitable basis has been stated or exists, Plaintiff respectfully asks that this Court deny the instant motion.

Dated: April 10, 2015
Port Chester, NY

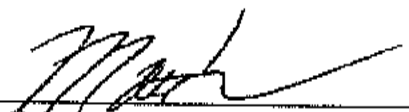

Kavulich & Associates, P.C.
By: Matthew Kasper, Esq.
Attorney for Plaintiff
181 Westchester, Ave., Suite 500C
Port Chester, NY 1057
(914) 355-2074

EXHIBIT 1

DIY

Civil Court of the City of New York
County of Bronx

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

4778
Index Number: CV-100350-08/BX

ORDER TO SHOW CAUSE

To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

_____ by Personal Service by " In Hand Delivery"
_____ by Certified Mail, Return Receipt Requested
_____ by First Class Mail with official Post Office
Certificate of Mailing

_____ by Personal Service by " In Hand Delivery"
_____ by Certified Mail, Return Receipt Requested
_____ by First Class Mail with official Post Office
Certificate of Mailing

on or before March 16th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part
Indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Pltf),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Saunders, Civil Court Judge (NYC)

HON. VERNAL S. SAUNDERS

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street realty Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

**AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer**

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

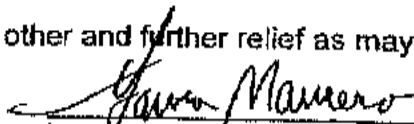
1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.

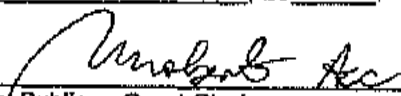
6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS GARNISHMENT HAS PUT A FINICHAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALIIED BARTON SECURITY SERVICES LLC ATTN PAYROLL 161 WASHINGTON ST STE 600 8 TOWER BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacatur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Proposed Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.


Laura Marrero, Defendant

Sworn to before me this _____ day
of MAR 10 2015


Notary Public or Court Clerk

<input checked="checked" type="checkbox"/>	I.D. Presented Type: <u>Phys DL</u>
<input type="checkbox"/>	No I.D. Provided

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx
PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

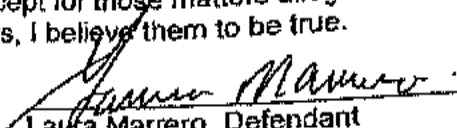
LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

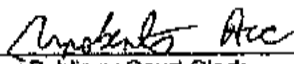
VERIFICATION

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.


Laura Marrero, Defendant

Sworn to before me this MAR 10 2015 day
of _____, 20____


Notary Public or Court Clerk

☒ I.D. Presented Type: MSD
☐ No I.D. Provided

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
File No. 4778

-----x
KELLY STREET REALTY, INC.,

Plaintiff,

AFFIDAVIT

-against-

LAURA MARRERO,

Defendant.
-----x

STATE OF NEW YORK)
) SS
COUNTY OF BRONX)

I, Anto Lulaj, being duly sworn deposes and says:

1. I am the agent for the Plaintiff, KELLY STREET REALTY, INC., herein and, as such, I am fully familiar with the facts and circumstances of this proceeding as I am responsible for, *inter alia*, leasing of apartments, and overseeing maintenance of the property when required.
2. I was the agent during the time in issue of this proceeding.
3. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building.
4. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.
5. Almost immediately thereafter, Defendant began to accumulate rental arrears.
6. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.
7. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

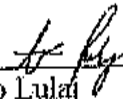
8. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

9. My attorneys have advised me that judgment was entered against the Defendant and that we have been collecting on an income execution since December, 2012.

WHEREFORE, your deponent respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Sworn to before me this
7th day of April, 2015

Notary Public


Anto Lulaj

GARY KAVULICH
Notary Public, State of New York
No. 02KA6205615
Qualified in Westchester County
Commission Expires May 11, 2017

EXHIBIT 3

CONSUMER CREDIT TRANSACTION. THIS IS AN ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION OBTAINED WILL BE USED TO COLLECT THIS DEBT.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
Kelly Street Realty, Inc.,
Plaintiff,

INDEX NO.
FILE NO. 4778

-against-

SUMMONS
Place of Venue is Plaintiff's
place of business:

Laura Marrero,

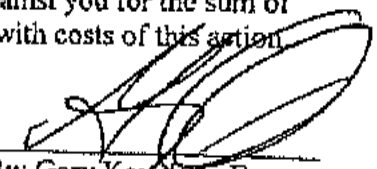
928 Kelly Street
Bronx, NY 10459

Defendant(s)

-----X
To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF
NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand
Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the
time provided by law as noted below and to file an answer to the below complaint with the
clerk: upon your failure to answer, judgment will be taken against you for the sum of
\$23,338.92 with interest thereon from May 1, 2003 together with costs of this action.

DATED: October 22, 2008


By: Gary Kavulich, Esq.,
Kavulich & Associates, P.C.
Attorney for Plaintiff
30 Church Street
Suite 26
New Rochelle, NY 10801
(914) 355-2074

Defendant's Address:

Laura Marrero
2303 Belmont Avenue, Apt. 5
Bronx, NY 10458-8343

Note: The law provides that: (a) If the summons is served by its delivery to you personally
within the City of New York, you must appear and answer within TWENTY days after such
service; or (b) If the summons is served by any means other than personal delivery to you
within the City of New York, you must appear and answer within THIRTY days after proof of
service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$22,838.92 representing rental arrears for the months of May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly sum of \$1,306.66 for the premises known as 928 Kelly Street, Apt.#1 Bronx, NY 10459 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$0.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$22,838.92 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of 0.000 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350708
Filed: _____

Attorneys: Kavulich & Associates, P.C.
Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

KELLY STREET REALTY INC.

vs.

LAURA MARRERO.

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41 p.m.

At: 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458 served the within Summons and Complaint on: LAURA MARRERO. Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient: deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion
Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.

Affixing to Door ☐ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☒ dwelling house (place of abode) within the state

Mail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1" Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.

On the 7th day of November, 2008 at 4:20p.m.

On the 8th day of November, 2008 at 6:41p.m.

Description A description of the Defendant, or other person served on behalf of the Defendant
☐ Sex: _____ Color of skin: _____ Color of Hair: _____ Age: _____ Height: _____ Weight: _____

Military Svce ☐ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.

Sworn to before me on this 10 day of 11/08

Aston G. Evans II
LIC# 1220069

EXHIBIT 4

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Court Index No. 100350/08
File No. 4778.0

Kelly Street Realty, Inc.,

Plaintiff

Against

Laura Marrero,

Defendant(s).

INCOME EXECUTION

**The People of the State
of New York**

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within court:

Court of Original Entry	Entry Date	Original Amount	Amount Due	Plus Interest From
CIVIL COURT OF THE CITY OF NEW YORK AM COUNTY OF BRONX	2/26/2009 12:00:00 AM	\$38,318.67	\$88,318.67	2/26/2009 12:00:00

The judgment was recovered against Laura Marrero
And transcribed with the county clerk(s) of Bronx

defendant (judgment debtor)

WHEREAS, this execution is issued against
whose last known address is: 2303 Belmont Avenue
Apt. 5 Bronx, NY 10455-8343

Laura Marrero

defendant (judgment debtor)

and said defendant (judgment debtor) is receiving or will receive from the Employer whose name and address is:
Allied Barton Security Services LLC 161 Washington Street, Ste. 600 8 Tower Bridge
Conshohocken, PA 19428 ATTN: Payroll

More than \$
Title or position
No

per week, to wit \$
Soc. Sec. and pension No.

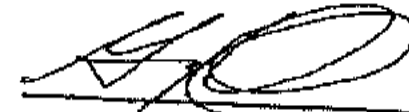
to be paid weekly installment of \$
Bureau Office or Subdivision

each
Payroll

9875

You are directed to satisfy the judgment with interest together with your fees and expense, out of all monies now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR § 5231 d 16 U.S.C 1671, et seq.
Direction to Judgment Debtor: You are notified and commanded within 30 days to start paying to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in 1. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expense of this Income execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Officer.
Direction to the Employer: You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in 1. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expense of this Income Execution are fully paid and satisfied.

Dated
9/28/2012


Gary Kavalich Esq.
Kavalich & Associates, P.C.
181 Westchester Avenue, Suite 500C
Port Chester, NY 10573
(914) 355-2074

* "Employer," herein, includes any payor of money to Judgment Debtor.

Important Statement

This income execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rules § 5231 and 16 United State Code § 1671 et seq.

I. Limitation on the amount that can be withheld

A. An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (10%) of the judgment debtor's gross income.

- B. If a judgment debtor's weekly disposable earnings are less than thirty (30) times the current federal minimum wage (\$6.85 per hour), or \$175.50* No deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot be reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$6.85* per hour), or \$175.50* under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's disposable earnings, no deduction can be made from the judgment debtor's earnings under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any order for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount, which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. Explanation of Limitations

Definitions

Disposable Earnings - Disposable earnings are that part of an individual's compensation after deducting those amounts that are required to be withheld (for example, taxes, social security and unemployment insurance, but not deduction for union dues, insurance plans, etc...)

Gross Income - Gross income is salary, wages or other income, including any and all overtime earnings, commissions, and income from trusts, before any deductions are made from such income.

Illustrations regarding earnings

If disposable earnings is:

- (a) 30 times federal minimum wage
is: (\$175.50*) or less

Amount to pay or deduct from earning under this income execution

No payment or deduction allowed

- (b) More than 30 times federal minimum
Wage (\$175.50*) and less than
40 times federal minimum wage
(\$284.00*)

The less of: the excess over 30 times the federal minimum wage
(\$175.50*) in disposable earnings, or 10% of gross earnings.

- (c) 40 times the federal minimum wage
(\$284.00*) or more

The less of: 25% of disposable earnings or 10% of gross earnings.

III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR § 5231 (i) and CPLR § 5240

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment.

If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged.

CPLR § 5231 (i) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution:

CPLR § 5240 Modification or protective order: supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure, including the use of income executions.

*Based upon \$4.25 minimum hourly wage. Recalculate and insert correct figures if the minimum hourly wage changes.

Endorsement:

Date and Time execution received:

Installments paid to _____ have satisfied the judgment to the extent of \$ _____

Principal and \$ _____ interest. _____

Levying officer _____ County _____
Return to the judgment creditor or his attorney on _____ because of inability to

Find garnishee in the county. _____
Levying officer _____ County _____

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX; PART 34

INDEX NO. 100350/08
FILE NO. 4778

KELLY STREET REALTY, INC.,

Plaintiff,

-against-

LAURA MARRERO,

Defendant.

AFFIRMATION OF
SERVICE

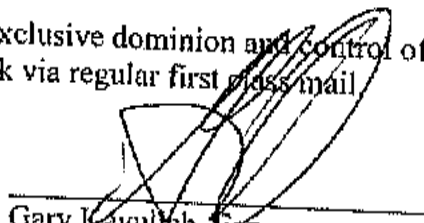
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Gary Kavulich, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On April 10, 2015, I served the within Affirmation in Opposition upon the movant in this action, by depositing a true copy in a post-paid envelope addressed to:

Laura Marrero
1468 Bryant Ave., Apt. 4B
Bronx, NY 10460

in an official depository under the exclusive dominion and control of the United States Postal Service within the State of New York via regular first class mail



Gary Kavulich, Esq.

INDEX NO. 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

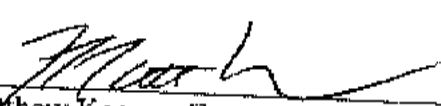
LAURA MARRERO,

Defendant.

AFFIRMATION IN OPPOSITION

Signature Rule 130-1.1-a

Print Name Beneath -


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorneys for Plaintiff
181 Westchester Ave., Suite 500C
Port Chester, NY 10573
(914) 355-2074

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX : PART 34

-----X
KELLY STREET REALTY, INC.,
Plaintiff,

Index No. CV 100350-08

-against-

DECISION and ORDER

LAURA MARRERO,
Defendant.

-----X
HON. VERA L. SAUNDERS, J.C.C.:

Recitation, as required by CPLR 2219(a), of the papers considered in the review of Plaintiff's motion to reargue.

Papers	Numbered
Order to Show Cause	1

The Court, in its prior decision/order of May 8, 2015, granted defendant's motion to vacate a default judgment entered against her. The underlying case between the parties was a landlord-tenant matter and the motion was granted, in part, on the basis that the judgment was comprised, from monies owed by Section 8. Plaintiff here moves for relief arguing that the Court overlooked or misapprehended facts or misapplied controlling law, specifically CPLR §317.

A motion to reargue is addressed to the discretion of the trial court and is designed to afford a party opportunity to establish that the Court overlooked or misapprehended relevant facts or misapplied controlling principles of law in determining the prior motion. See *CPLR §2221(d)*. Here, the plaintiff argues that the Court failed to consider CPLR § 317 in determining the prior motion. Plaintiff avers that vacatur of the default judgment is precluded as the defendant failed to timely request relief inasmuch as a period of two years after judgment elapsed before plaintiff moved the court.

As to the underlying motion to vacate the judgment, the unrepresented defendant moved the court pursuant to CPLR §5015 (a)(4), not CPLR § 317. While the court can consider a single motion

under both CPLR sections 317 and 5015, see *Pena v Mittleman*, 179 AD2d 607 (App Div, 1st Dept) (1992), here, the movant articulated the section under which relief was sought, (CPLR §5015 (a)(4)) and substantiated the basis for the motion. Plaintiff argues that meeting the strictures of CPLR § 317 is a prerequisite to relief being granted under CPLR § 5015(a)(4). However, relief sought pursuant to CPLR § 5015 (a)(4) has no time stated time limit and the request can be made at any time. See *Caba v Rai*, 63 AD3d 578 (App Div, 1st Dept) (2009) citing, *Siegel Practice Commentaries*, *McKinney's Cons Laws Book 7B*, CPLR §C5015:3, at 205-206.

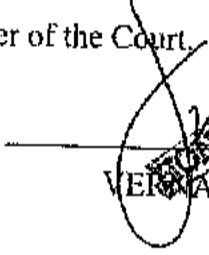
Here, the Court found the defendant's assertions credible. Further, the allegations that the tenancy was subsidized by federal Section 8 rules and that there was a fire in the premises necessitating defendant's vacatur of the premises and subsequent relocation, constitute a sound basis upon which relief was granted. Again, it is well-settled that courts favor disposition on the merits.

Accordingly, the motion is denied and the May 8, 2015 order of the Court vacating the default judgment stands. As this matter was previously calendared for November 5, 2015, 9:30 A.M., all parties shall appear on that date.

This constitutes the decision and order of the Court.

Dated: Bronx, New York
October 14, 2015

Kauvalich & Associates, PC
By: Matthew Kasper, Esq.
Attorneys for Plaintiff


VERONICA L. SAUNDERS, J.C.C.
Laura Marrero
Respondent

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

-----X
KELLY STREET REALTY, INC.,

Index No. 100350/08
File No. 4778

Plaintiff,

- against -

LAURA MARRERO,

Defendant.
-----X

ORDER TO SHOW CAUSE

**It is Mandatory in Special Term,
Civil Court City of NY - Bronx County
for Litigants and Attorneys to APPEAR
in Court on the Return Calendar Date
in Response to ORDERS TO SHOW CAUSE**

UPON THE ANNEXED AFFIRMATION OF Matthew Kasper, Esq., sworn on
June 2, 2015, and upon all prior papers and proceedings heretofore had herein,

LET DEFENDANT AND/OR HER ATTORNEYS SHOW CAUSE before ME
OR ONE OF THE Judges of this Court at Part 34C, Room 504 in the Civil Court of
the City of New York, County of Bronx, State of New York, located at 851 Grand
Concourse, New York, on the 26th day of June, 2015 at 9:30 am in the forenoon of
that day or as soon thereafter as counsel can be heard why an Order should not be made
pursuant to CLPR 2221:

1. Granting reargument of Defendant's motion seeking vacatur of the instant judgment;
2. Amending Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied;
3. Alternatively, vacating Judge Saunders' Decision and Order dated May 12, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety.

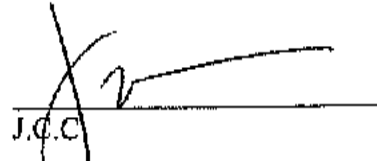
LET all proceedings on the part of the Defendant, Defendant's attorney, agents, successors and assignees be stayed.

NOW, SUFFICIENT CAUSE HAVING BEEN ALLEGED AND APPEARING
THEREFOR, let service of a copy of this Order, and the papers upon which it is based,
upon the Defendant at 1468 Bryant Ave., Apt. 4B, Bronx, New York 10460, by

Certified mail Return Receipt Requested, on or before the 17th day of JUNE, 2015, be
deemed service good and sufficient.

Dated: Bronx, New York
June 9, 2015

JUN 09 2015


J.C.C.
HON. VERNA L. SAUNDERS

PROOF OF SERVICE SHALL BE FILED
WITH THE CLERK OF CIVIL COURT
ON THE RETURN DATE.

INDEX NO: 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

KBLLY STREET REALTY, INC.,

Plaintiff,

- against -

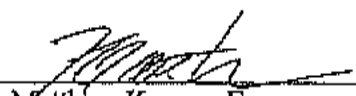
LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

Signature Rule 130-1.1-a

Print Name Beneath


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorney for Plaintiff
181 Westchester Ave., Suite 500-C
Port Chester, NY 10573
(914)355-2074

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

Index No. 100350/08
File No. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

**AFFIRMATION OF
SERVICE**

- against -

LAURA MARRERO,

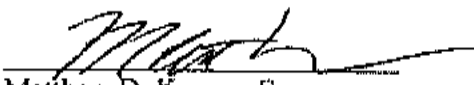
Defendant.
-----X

Matthew D. Kasper, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On June 9, 2015 I served the within Order to Show Cause upon Laura Marrero the Defendant in this action by depositing a true copy in a post paid envelope addressed to:

Laura Marrero
1468 Bryant Ave., Apt. 4B
Bronx, NY 10460

in a depository under the exclusive dominion and control of the United States Postal Service within the State of New York via certified mail, return receipt requested, referenced by the tracking number 917199793522867334.


Matthew D. Kasper, Esq.

English

Customer Service

USPS Mobile

Register / Sign In



USPS Tracking™



Customer Service
Have questions? We're here to help.



Get Easy Tracking Updates
Sign up for My USPS.

Tracking Number: 9171999991703522867334

Updated Delivery Day: Saturday, June 13, 2015

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

Text Updates

Email Updates

DATE & TIME

STATUS OF ITEM

LOCATION

June 18, 2015, 1:21 pm

Delivered

BRONX, NY 10460

Your item was delivered at 1:21 pm on June 18, 2015 in BRONX, NY 10460

June 13, 2015, 3:24 pm	Notice Left (No Authorized Recipient Available)	BRONX, NY 10460
June 13, 2015, 9:23 am	Out for Delivery	BRONX, NY 10460
June 13, 2015, 9:13 am	Sorting Complete	BRONX, NY 10460
June 13, 2015, 8:24 am	Arrived at Unit	BRONX, NY 10460
June 13, 2015, 4:43 am	Departed USPS Facility	NEW YORK, NY 10199
June 12, 2015, 9:31 am	Arrived at USPS Facility	NEW YORK, NY 10199
June 11, 2015, 8:32 pm	Departed USPS Facility	WHITE PLAINS, NY 10610
June 11, 2015, 4:24 pm	Arrived at USPS Facility	WHITE PLAINS, NY 10610

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

Sign up for My USPS.



CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,

Index No. 100350/08

File No. 4778

Plaintiff,

- against -

LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

*It is Mandatory in Special Term,
Civil Court City of NY - Bronx County
for Litigants and Attorneys to APPEAR
in Court on the Return Calendar Date
in Response to ORDERS TO SHOW CAUSE*

UPON THE ANNEXED AFFIRMATION OF Matthew Kasper, Esq., sworn on
June 2, 2015, and upon all prior papers and proceedings heretofore had herein,

LET DEFENDANT AND/OR HER ATTORNEYS SHOW CAUSE before ME
OR ONE OF THE Judges of this Court at Part 34C, Room 504 in the Civil Court of
the City of New York, County of Bronx, State of New York, located at 851 Grand
Concourse, New York, on the 26th day of June, 2015 at 9:30 am in the forenoon of
that day or as soon thereafter as counsel can be heard why an Order should not be made
pursuant to CLPR 2221:

1. Granting reargument of Defendant's motion seeking vacatur of the instant
judgment;
2. Amending Judge Saunders' Decision and Order dated May 12, 2015 to the extent
that Defendant's motion is denied;
3. Alternatively, vacating Judge Saunders' Decision and Order dated May 12, 2015
and issuing a new Decision and Order denying Defendant's motion in its entirety.

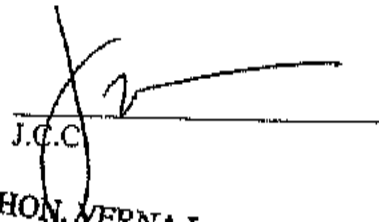
LET all proceedings on the part of the Defendant, Defendant's attorney, agents,
successors and assignees be stayed.

*REVEN 80
JUDGE SAUNDERS*
Page 55

NOW, SUFFICIENT CAUSE HAVING BEEN ALLEGED AND APPEARING
THEREFOR, let service of a copy of this Order, and the papers upon which it is based,
upon the Defendant at 1468 Bryant Ave., Apt. 4B, Bronx, New York 10460, by
Certified mail Return Receipt Requested, on or before the 17th day of JUNE, 2015, be
deemed service good and sufficient.

Dated: Bronx, New York
June 9, 2015

JUN 09 2015


J.C.C.
HON. VERNA L. SAUNDERS

PROOF OF SERVICE SHALL BE FILED
WITH THE CLERK OF CIVIL COURT
ON THE RETURN DATE.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

**AFFIRMATION IN
SUPPORT OF ORDER TO
SHOW CAUSE**

- against -

LAURA MARRERO,

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Courts of the State of New York hereby affirms the following under the penalty of perjury.

1. I am an associate of the law firm of Kavulich & Associates, P.C., attorneys for the Plaintiff, herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the Court's file, and information contained within the file as maintained by your affirmant's office.

2. I make this affirmation which seeks an order granting reargument of Defendant's motion seeking vacatur of the instant judgment; amending Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied; alternatively, vacating Judge Saunders' Decision and Order dated May 12, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety. Annexed hereto as Exhibit "1" is a copy of this Court's Decision and Order at issue. Annexed hereto as Exhibit "2" is a copy of Defendant's motion and Plaintiff's opposition.

3. CPLR 2221(d) states that a motion to reargue “shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion.”

4. “A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law.” *Foley v. Roche*, 68 A.D.2d 558, 567 (1st Dep’t 1979); *McGill v. Goldman*, 261 A.D.2d 593 (2d Dep’t 1999); *Opton Handler Gottlieb Feiler Landau & Hirsch v. Patel*, 203 A.D.2d 72 (1st Dep’t 1994); *Loris v. S&W Realty Corp.*, 16 A.D.3d 729, 730 (3d Dep’t 2005) (noting that a motion for leave to reargue is left to the sound discretion of the court, and may be granted even when “the criteria for granting a reconsideration motion are not technically met”).

5. Plaintiff respectfully raises issue as to the omission in Judge Saunders’ Decision/Order dated May 7, 2015 of any discussion addressing Plaintiff’s argument asserting that granting Defendant’s motion would facially violate CPLR 317.

6. CPLR 317 states in relevant part as follows:

A person served with a summons other than by personal delivery to him or to his agent for service designated under rule 318, within or without the state, who does not appear may be allowed to defend the action within one year after he obtains knowledge of entry of the judgment

7. Here, Plaintiff raised this argument in paragraph 17 of its affirmation in opposition.

8. Moreover, Plaintiff cited a New York City Civil Court case which is on all fours with the facts of the instant case illustrating the application of CPLR 317. *See Elite*

Recovery Services, Inc. v. R. Howard Helrich, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

9. Simply stated, Defendant admitted knowing of the instant judgment for more than two years and failed to move to vacate the judgment, in fact she acquiesced in the existence of the judgment. (See Paragraphs 18-25 of Plaintiff's affirmation in opposition annexed hereto as Exhibit 2).

10. Further, Defendant submitted no reply and offered no response to the Plaintiff's argument applying the one year limitation as set forth in CPLR 317.

11. Respectfully, the applicability of CPLR 317 was not discussed or even mentioned in Judge Saunders' decision and order dated May 7, 2015.

12. Stated another way, the existence and applicability of CPLR 317 precludes the CPLR 5051 (meritorious defense / excusable default) analysis.

13. The fact that Defendant may have an excusable default and a meritorious defense is immaterial if she failed to move within the CPLR 317 one year limitation.

14. Without any factual support or argument against the applicability of CPLR 317, this Court is powerless to vacate the judgment as it did in the aforementioned decision and order.

15. As such, allowing the decision and order at issue to remain in force and effect would be clear error.

16. Furthermore, Plaintiff has expended a substantial amount of time and money in overseeing and conducting the over two year collection effort which took place while Defendant hesitated and acquiesced in the existence of the judgment in clear violation of CPLR 317.

17. Allowing the judgment to now be vacated would operate as prejudice to Plaintiff to the extent that the lengthy and costly lawful collection efforts expended by Plaintiff will all go to waste.

18. Therefore, this Court must grant Plaintiff's instant application and either (a) amend Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied; or (b) alternatively, vacate Judge Saunders' Decision and Order dated May 12, 2015 and issue a new Decision and Order denying Defendant's motion in its entirety on the basis that Defendant failed to move within one year of knowing of the existence of the judgment in accord with CPLR 317.

19. This is Plaintiff's first Order to Show Cause to reargue this Court's decision and order dated May 7, 2015.

20. This Order to Show Cause is timely as the underlying decision and order was entered on May 12, 2015 and a notice of entry was served on May 19, 2015 thereby allowing Plaintiff until June 18, 2015 to make the instant application. Annexed hereto as Exhibit "3" is a copy of the notice of entry.

WHEREFORE, your affirmant respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Dated: Port Chester, New York
June 2, 2015

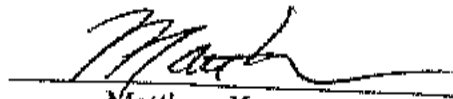

Matthew Kasper, Esq.

EXHIBIT 1

Civil Court of the City of New York

County of Queens

Part 34

Index Number

16 10050 LC P2

Kelly Street Realty Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Manno

Defendant(s)/Respondent(s)

DECISION/ORDER

elapsed since the judgment was entered, serious questions are raised regarding whether the debt here to wit, rental arrears, are attributable to the defendant. Aside from the obvious procedural issue of a line allegedly denigrating the subject premises, Section 8 rules prohibit the tenant being charged for more than his/her "tenant share" of the rent.

Accordingly, the Court is satisfied that the defendant has come forward with an excusable default and meritorious defense to warrant granting the instant order to show cause.

The judgment is vacated and any and all writs or writs of enforcement, writs of execution, writs of attachment or writs of sequestration are vacated. Any sums collected in connection with the judgment shall be returned forthwith.

The answer answers to the defendant's order to show cause.

Date

Judge, Civil Court

Civil Court of the City of New York

County of BRONX

Part 34

Index Number

NY 100200-08 EX

Kelly Street Realty, Inc.

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Louis M. Moore

Defendant(s)/Respondent(s)

DECISION/ORDER

It is decided, filed and entered in this matter and the defendant may answer same within 30 days of the date of this order.

The matter is referred to the calendar for a pre trial conference July 8, 2015 at 9:00 AM. Defendant is to comply with Section 8.

Defendant shall serve a copy of this order with notice of filing within 10 days by 1st class mail with certificate of mailing. This constitutes the decision and order of the Court.

**ENTERED
BRONX COUNTY**

MAY 12 2015

**Civil Court
of the
City of New York**

Date

5/7/15

Judge, Civil Court

HON. VERA L. SAUNDERS

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

-against-

LAURA MARRERO,

Defendant.
-----X

**AFFIRMATION IN
OPPOSITION**

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Court of the State of New York, hereby affirms under the penalty of perjury:

1. I am an associate of Kavulich & Associates, P.C., attorneys for the Plaintiff herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated upon information and belief, as to those matters I believe them to be true. The basis of my belief is information supplied to me by my client, information contained within the court file and information maintained within my office.

2. I make this affirmation in opposition to the Defendant VERONICA MORENO's Order to Show Cause which seeks to vacate the instant judgment issued on default. Please see Respondent's instant Order to Show Cause and Proposed Answer annexed hereto as Exhibit "1."

STATEMENT OF THE UNDISPUTED FACTS

1. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building. Annexed hereto as Exhibit "2" is the affidavit of Anto Lulaj, agent of Plaintiff.

2. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

3. Almost immediately thereafter, Defendant began to accumulate rental arrears.

4. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.

5. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

3. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

4. Defendant was served with a summons and complaint via conspicuous service on November 8, 2008. Annexed hereto as Exhibit "3" is a copy of the summons, complaint, and affidavit of service.

5. The Plaintiff had not been contacted by the Defendant since they vacated the subject premises and until many years after she was notified by the wage garnishment that was issued by your affirmant's office. Annexed hereto as Exhibit "4" is a copy of the income execution.

6. Defendant now moves to vacate the default judgment issued on February 26, 2009.

THE DEFENDANT'S INSTANT MOTION DOES NOT DEMONSTRATE AN
EXCUSABLE DEFAULT AND MERETORIOUS DEFENSE. THEREFORE THE
MOTION SHOULD BE DENIED

7. In order to prevail on this instant motion, Defendant must prove both an excusable default *and* meritorious defense as upon showing of both of those prongs, vacating a default judgment is proper. CPLR 5051(a)(1); *Bank of Am. v. Faracco*, 89 AD3d 879 [2d Dep't 2011]; *Community Preserve. Corp. v. Bridgewater condominiums. LLC.*, 89 AD3d 784 [2d Dep't 2011].

8. Moreover, should Defendant demonstrate a reasonable excuse for the default, a Court must nonetheless uphold the default judgment when the Respondent's papers submitted in support thereof are replete with self-serving, vague, unsubstantiated denials, and unsupported

legal conclusions. *Thapt v. Lutheran Med. Ctr.*, 89 AD3d 837 [2d Dep't 2011]; *Garal Wholesalers, Ltd. v. Raven Brands, Inc.*, 82 AD3d 1041 [2d Dep't 2011].

9. It is respectfully stated to the Court that Defendant has failed to demonstrate both prongs and that this motion must be denied.

10. Defendant alleges that she was not served with the summons and complaint, however she offers no support for this such as an explanation of where she was living at the time or a suggestion as to how process did not end up in her possession.

11. A process server's affidavit constitutes prima facie evidence of proper service pursuant to CPLR 308(4). *City of New York v. Miller*, 2010 NY Slip Op 03059 (2d Dep't 2010).

12. Defendant's self-serving and conclusory statements are insufficient to rebut the presumption of service.

13. Moreover, Defendant alleges that she was "burned out of this residence."

14. Again, without support or even an iota of specificity as to when this purported fire took place, and what happened during the fire requiring Defendant's vacature.

15. In fact, Defendant vacated the apartment due to the commencement of a housing court case as a result of her failure to pay rent. Please see the aforementioned Exhibit "2."

16. Accordingly, Defendant fails to set forth a legally cognizable meritorious defense and reasonable excuse for her default.

DEFENDANT IS CHARGED WITH NOTICE OF THE INSTANT LITIGATION SUCH THAT HER APPLICATION IS UNTIMELY AS A MATTER OF LAW

17. CPLR 317 requires an applicant seeking to vacate a default judgment to have an application within one year of knowing of the judgment.

18. A New York City Civil Court, in a case on point applying CPLR 317 and involving a judgment-debtor's Order to Show Cause pursuant to CPLR 5051 seeking vacatur of a default judgment after ignoring an income execution of twenty-months - denied the judgment-debtor's

application. *Elite Recovery Services, Inc. v. R. Howard Helrich*, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

19. In denying the judgment-debtor's application for vacatur, the Court discussed its rationale as follows:

Defendant has not set forth any excuse as to why he ignored an income execution against his wages for twenty-months. The execution went into effect in June 2009 and defendant did not make this motion until February 2011. It is not credible that the defendant did not have either actual or constructive knowledge of the litigation as he had been having his wages garnished for over a year. As noted above, the policy of this court is to try to have all cases decided on the merits. However, the justice system assumes that people will act to challenge a judgment wrongfully entered against them within a reasonable amount of time after obtaining notice of it and that they will act in an expeditious manner to address such a situation. The actions of the defendant do not even approach "diligence" let alone "due diligence."

Id. at *4.

20. Here, Defendant was served with an income execution on September 26, 2012.

21. As a result, her income was continuously garnished from December 5, 2012 (the first payment) through to the service of the instant Order to Show Cause on or about March 10, 2015 – over two years.

22. In fact, Defendant states that she "never found out about this until I started being garnished from my pay check" Please see the aforementioned Exhibit "I." (emphasis added).

23. Defendant admits knowing about the garnishment the day it began, yet waited over two years to make the instant application which, as held in *Elite Recovery*, is not even close to due diligence as required by CPLR 317.

24. Therefore, even assuming *arguendo* that the Defendant offers an excusable default and meritorious defense, the Defendant's failure to address her default in almost 2 years combined

with her knowing disregard for the aforementioned execution measures should not be countenanced.

25. As such, Defendant's Order to Show Cause should be denied as untimely pursuant to CPLR 317.

WHEREFORE, as no legal or equitable basis has been stated or exists, Plaintiff respectfully asks that this Court deny the instant motion.

Dated: April 10, 2015
Port Chester, NY

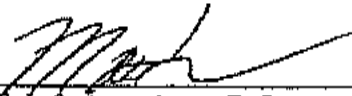

Kavulich & Associates, P.C.
By: Matthew Kasper, Esq.
Attorney for Plaintiff
181 Westchester, Ave., Suite 500C
Port Chester, NY 1057
(914) 355-2074

EXHIBIT 1

DIY

Civil Court of the City of New York
County of Bronx

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

4778
Index Number: CV-100350-08/BX

ORDER TO SHOW CAUSE
To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office
Certificate of Mailing

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office
Certificate of Mailing

on or before March 16th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Plt),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Saunders, Civil Court Judge (NYC)

HON. VERNAL S. SAUNDERS

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. cv10035008bx

Kelly street reality Inc,
Plaintiff,

**AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer**

– against –

LAURA MARRERO,
Defendant.

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

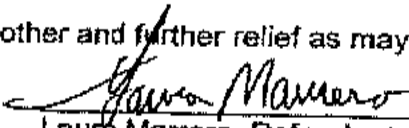
1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.

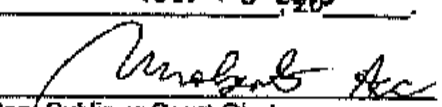
6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS GARNISHMENT HAS PUT A FINICAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALIIED BARTON SECURITY SERVICES LLC ATTN PAYROLL 161 WASHINGTON ST STE 600 8 TOWER BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacatur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Proposed Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.


Laura Marrero, Defendant

Sworn to before me this _____ day
of MAR 10 2015


Notary Public or Court Clerk

<input checked="checked" type="checkbox"/>	I.D. Presented Type: <u>Phys PC</u>
<input type="checkbox"/>	No I.D. Provided

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

**PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION**

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

VERIFICATION

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Laura Marrero
Laura Marrero, Defendant

Sworn to before me this MAR 10 2015 day
of _____, 20____

Notary Public
Notary Public or Court Clerk

<input checked="" type="checkbox"/> I.D. Presented Type: <u>MSDL</u>
<input type="checkbox"/> No I.D. Provided

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
File No. 4778

-----x
KELLY STREET REALTY, INC.,

Plaintiff,

AFFIDAVIT

-against-

LAURA MARRERO,

Defendant.
-----x

STATE OF NEW YORK)
) SS
COUNTY OF BRONX)

I, Anto Lulaj, being duly sworn deposes and says:

1. I am the agent for the Plaintiff, KELLY STREET REALTY, INC., herein and, as such, I am fully familiar with the facts and circumstances of this proceeding as I am responsible for, *inter alia*, leasing of apartments, and overseeing maintenance of the property when required.
2. I was the agent during the time in issue of this proceeding.
3. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building.
4. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.
5. Almost immediately thereafter, Defendant began to accumulate rental arrears.
6. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.
7. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

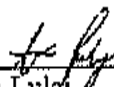
8. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

9. My attorneys have advised me that judgment was entered against the Defendant and that we have been collecting on an income execution since December, 2012.

WHEREFORE, your deponent respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Sworn to before me this
7th day of April, 2015

Notary Public


Anto Lulaj

GARY KAVULICH
Notary Public, State of New York
No. 02KA0205815
Qualified in Westchester County
Commission Expires May 11, 2017

EXHIBIT 3

CONSUMER CREDIT TRANSACTION. THIS IS AN ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION OBTAINED WILL BE USED TO COLLECT THIS DEBT.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,
Plaintiff,

INDEX NO.
FILE NO. 4778

-against-

SUMMONS
Place of Venue is Plaintiff's
place of business:

Laura Marrero,

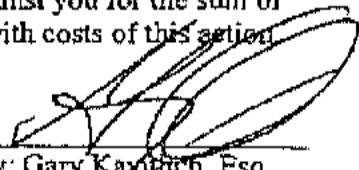
928 Kelly Street
Bronx, NY 10459

Defendant(s)

To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF
NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand
Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the
time provided by law as noted below and to file an answer to the below complaint with the
clerk: upon your failure to answer, judgment will be taken against you for the sum of
\$23,338.92 with interest thereon from May 1, 2003 together with costs of this action.

DATED: October 22, 2008


By: Gary Kavulich, Esq.,
Kavulich & Associates, P.C.
Attorney for Plaintiff
30 Church Street
Suite 26
New Rochelle, NY 10801
(914) 355-2074

Defendant's Address:

Laura Marrero
2303 Belmont Avenue, Apt. 5
Bronx, NY 10458-8343

Note: The law provides that: (a) If the summons is served by its delivery to you personally
within the City of New York, you must appear and answer within TWENTY days after such
service; or (b) If the summons is served by any means other than personal delivery to you
within the City of New York, you must appear and answer within THIRTY days after proof of
service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$22,838.92 representing rental arrears for the months of May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly sum of \$1,306.66 for the premises known as 928 Kelly Street, Apt.#1 Bronx, NY 10459 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$0.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$22,838.92 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of 0.000 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
Filed: _____

Attorneys: Kavulich & Associates, P.C.
Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

KELLY STREET REALTY INC.

vs.

LAURA MARRERO.

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41p.m.

At 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458 served the within Summons and Complaint on: LAURA MARRERO. Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient: deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion
Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.

Affixing to Door ☒ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☒ dwelling house (place of abode) within the state

Mail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1st Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.

On the 7th day of November, 2008 at 4:20p.m.

On the 8th day of November, 2008 at 6:41p.m.

Description A description of the Defendant, or other person served on behalf of the Defendant
☐ Sex: _____ Color of skin: _____ Color of Hair: _____ Age: _____ Height: _____ Weight: _____

Military Svce ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.

Sworn to before me on this 10 day of 11/08

Aston G. Evans II
LIC# 1220069

EXHIBIT 4

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Court Index No. 100368/08

File No. 4778.0

Kelly Street Realty, Inc.,

Plaintiff,

Against

Laura Marrero,

Defendant(s).

INCOME EXECUTION

The People of the State
of New York

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within court:

Court of Original Entry	Entry Date	Original Amount	Amount Due	Plus Interest From
CIVIL COURT OF THE CITY OF NEW YORK AM COUNTY OF BRONX	2/26/2009 12:00:00 AM	\$39,318.07	\$39,318.07	2/26/2009 12:00:00 AM

The judgment was recovered against Laura Marrero
And transcribed with the county clerk(s) of Bronx

defendant (judgment debtor)

WHEREAS, this execution is issued against Laura Marrero
whose last known address is: 2303 Belmont Avenue
Apt. 5 Bronx, NY 10458-8343

defendant (judgment debtor)

and said defendant (judgment debtor) is receiving or will receive from the Employer whose name and address is:
Allied Barton Security Services LLC 161 Washington Street, Ste. 600 8 Tower Bridge
Cousabohocken, PA 18428 ATTN: Payroll

More than \$
Title or position
No.

per week, to wit \$
Soc. Sec. and/or pension No.

to be paid weekly installment of \$
Business Office or Subdivision

each
Rank

9875

You are directed to satisfy the judgment with interest together with your fees and expenses, out of all monies now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR § 5231 d 16 U.S.C 1671, et. Seq.
Direction to Judgment Debtor: You are notified and commanded within 20 days to start paying to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in I. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income Execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Officer.
Direction to the Employer: You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in I. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expenses of this Income Execution are fully paid and satisfied.

Dated
01/26/2012

Gary Kavulich Esq.
Kavulich & Associates, P.C.
181 Westchester Avenue, Suite 500C
Port Chester, NY 10573
(914) 355-2074

- "Employer," herein, includes any payor of money to Judgment Debtor.

Important Statement

This income execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rules § 5231 and 16 United State Code § 1671 et seq.

I. Limitation on the amount that can be withheld

- A. An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (10%) of the judgment debtor's gross income.

- B. If a judgment debtor's weekly disposable earnings are less than thirty (30) times the current federal minimum wage (\$5.85 per hour), or \$175.50* No deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$5.85* per hour), or \$175.50* under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's disposable earnings, no deduction can be made from the judgment debtor's earnings under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any order for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount, which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. Explanation of Limitations

Definitions

Disposable Earnings - Disposable earnings are the amount of an individual's earnings after deducting those amounts that are required to be withheld (for example, taxes, Social Security and unemployment insurance, but not deduction for union dues, insurance, etc.).

Gross Income - Gross income is salary, wages or other income, including any and all overtime earnings, commissions, and income from trusts, before any deductions are made from such income.

Illustrations regarding earnings

If disposable earnings is:

(a) 30 times federal minimum wage

is:

(\$175.50*) or less

Amount to pay or deduct from earnings under this income execution

No payment or deduction allowed

(b) More than 30 times federal minimum Wage (\$175.50*) and less than 40 times federal minimum wage (\$234.00*)

The less of: the excess over 30 times the federal minimum wage (\$175.50*) in disposable earnings, or 10% of gross earnings.

(c) 40 times the federal minimum wage (\$234.00*) or more

The less of: 25% of disposable earnings or 10% of gross earnings.

III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR § 5231 (i) and CPLR § 5240

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment.

If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged.

CPLR § 5231 (i) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

CPLR § 5240 Modification or protective order: supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any postjudgment enforcement procedure, including the use of income executions.

*Based upon \$4.25 minimum hourly wage. Recalculate and insert correct figures if the minimum hourly wage changes.

Endorsement:

Date and Time execution received:

Installments paid to _____ have satisfied the judgment to the extent of \$ _____

Principal and \$ _____ interest. _____

Return to the judgment creditor or his attorney on _____

_____ because of inability to

Find garnishes in the county. _____

Levying officer

County

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

-against-

AFFIRMATION OF
SERVICE

LAURA MARRERO,

Defendant.
-----X

Gary Kavulich, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On April 10, 2015, I served the within Affirmation in Opposition upon the movant in this action, by depositing a true copy in a post-paid envelope addressed to:

Laura Marrero
1468 Bryant Ave., Apt. 4B
Bronx, NY 10460

in an official depository under the exclusive dominion and control of the United States Postal Service within the State of New York via regular first class mail



Gary Kavulich, Esq.

INDEX NO. 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

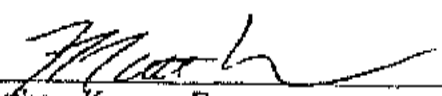
LAURA MARRERO,

Defendant.

AFFIRMATION IN OPPOSITION

Signature Rule 130-1.1-a

Print Name Beneath -


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorneys for Plaintiff
181 Westchester Ave., Suite 500C
Port Chester, NY 10573
(914) 355-2074

EXHIBIT 3

4778

Civil Court of the City of New York
County _____

Index Number: CV-1000350/08-BX

Kelly Street Realty Inc

Plaintiff(s),

NOTICE OF ENTRY

-against-

Laura Marrero Defendant(s),

Please take notice that the within is a true copy of a(n)

DECISION ORDER JUDGMENT duly entered in the office of the Clerk of the Civil Court of
(choose one)
the City of New York, County of New York, on the 12 day of May, 2015.

Dated: 5-19-2015

Signature: x Laura Marrero

Print Name: Laura Marrero

Address: 1468 Bryant Ave #4B
Brook New York 10460

Sworn to before me this 19 day

of May, 2015

Paulina B. Reyes
(Notary Public)

CIV-GP-105 (Revised 01/04)

PAULINA B. REYES
NOTARY PUBLIC, State of New York
No. 04RE6193996
Qualified in Bronx County
Commission Expires Sept. 18, 2016

INDEX NO: 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

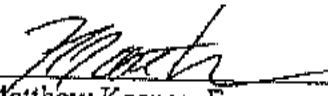
LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

Signature Rule 130-1.1-a

Print Name Beneath


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorney for Plaintiff
181 Westchester Ave., Suite 500-C
Port Chester, NY 10573
(914)355-2074

2015 JUN -9 AM 9:50

CIVIL COURT

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

-----X
KELLY STREET REALTY, INC.,

Index No. 100350/08
File No. 4778

Plaintiff,

- against -

LAURA MARRERO,

Defendant.
-----X

ORDER TO SHOW CAUSE

2016 JAN 13 AM 11:34

CIVIL COURT
COUNTY OF BRONX

UPON THE ANNEXED AFFIRMATION OF Matthew Kaspar, Esq., sworn on
January 5, 2016, and upon all prior papers and proceedings heretofore had herein,

LET DEFENDANT AND/OR HER ATTORNEYS SHOW CAUSE before ME
OR ONE OF THE Judges of this Court at Part 34, Room 503, in the Civil Court of
the City of New York, County of Bronx, State of New York, located at 851 Grand
Concourse, New York, on the 4th day of Feb, 2016 at 9:30 am in the forenoon of
that day or as soon thereafter as counsel can be heard why an Order should not be made
pursuant to CLPR 2221:

1. Granting reargument of Plaintiff's Order to Show Cause dated June 2, 2015;
2. Amending Judge Saunders' Decision and Order dated October 14, 2015 to the extent that Defendant's motion is denied;
3. Alternatively, vacating Judge Saunders' Decision and Order dated October 14, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety.

LET all proceedings on the part of the Defendant, Defendant's attorney, agents, successors and assignees be stayed.

NOW, SUFFICIENT CAUSE HAVING BEEN ALLEGED AND APPEARING

THEREFOR, let service of a copy of this Order, and the papers upon which it is based,

upon the Defendant at 1468 Bryant Ave., Apt. 4B, Bronx, New York 10460, by

Certified Mail Return Receipt Required on or before the 21st day of Jan, 2016 be
deemed service good and sufficient.

Dated: Bronx, New York
_____, 2016

J.C.C.

*Declined:
1/19/16 Defendant's asserted
to warrant a reargument
of a reargument decision.
Must to seek relief appropriate
in an appellate ct.*

*HON. VERONICA S. ...
1/19/16*

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX
-----X
KELLY STREET REALTY, INC.,

INDEX NO. 100350/08
FILE NO. 4778

Plaintiff.

**AFFIRMATION IN
SUPPORT OF ORDER TO
SHOW CAUSE**

- against -

LAURA MARRERO.

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Courts of the State of New York hereby affirms the following under the penalty of perjury.

1. I am an associate of the law firm of Kavulich & Associates, P.C., attorneys for the Plaintiff herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the Court's file, and information contained within the file as maintained by your affirmant's office.

2. I make this affirmation which seeks an order granting reargument of Plaintiff's order to show cause; amending Judge Saunders' Decision and Order dated October 14, 2015 to the extent that Defendant's motion is denied; alternatively, vacating Judge Saunders' Decision and Order dated October 14, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety. Annexed hereto as Exhibit "1" is a copy of this Court's Decision and Order at issue. Annexed hereto as Exhibit "2" is a copy of Plaintiff's order to show cause.

3. On or about March 10, 2015, Defendant moved this court seeking vacatur of the instant judgment pursuant to CPLR 5015(a)(1) [meritorious defense / excusable default] or CPLR 5015(a)(4) [jurisdiction]. Annexed hereto as Exhibit "3" is a copy of Defendant's motion.

4. Plaintiff opposed this motion arguing that service was proper and that Defendant's prong of her motion based on CPLR 5015(a)(1) [meritorious defense / excusable default] was time limited because **she failed to move within one year of being notified of the judgment**. Annexed hereto as Exhibit "4" is a copy of Plaintiff's affirmation in opposition.

5. Nonetheless, on May 7, 2015, a decision was issued vacating the judgment based upon CPLR 5015(a)(1). **"the court is satisfied that the defendant has come forward with an excusable default and meritorious defense to warrant granting the instant order to show cause."** Annexed hereto as Exhibit "5" is a copy of the decision/order dated May 7, 2015 (*see* middle of "page 2 of 3").

6. The court vacated the judgment in violation of the CPLR 317 time limitation applicable to motion pursuant to CPLR 5015(a)(1):

A person served with a summons other than by personal delivery to him or to his agent for service designated under rule 318, within or without the state, who does not appear may be allowed to defend the action with one year after he obtains knowledge of entry of the judgment ...

CPLR 317.

7. Consequently, Plaintiff moved via an order to show cause to reargue the decision/order dated May 7, 2015 drawing the court's attention to this error. Please see the aforementioned Exhibit "1."

8. In response, the court issued its October 14, 2015 decision and order denying Plaintiff's order to show cause and allowing the prior May 7, 2015 decision/order vacating the judgment based upon CPLR 5015(a)(1) to stand, but opining that CPLR 5015(a)(4) has no time limitation.

9. Respectfully, the court misapplied a controlling principle of law by vacating the judgment using a CPLR 5015(a)(1) [meritorious defense / reasonable excuse analysis] and circumventing the CPLR 317 one year limitation by opining that the judgment was vacated under CPLR 5015(a)(4) [jurisdictional analysis].

10. The October 14, 2015 decision and order is not only wrong, but it allows the original CPLR 5015(a)(1) order to stand which is in clear violation of the CPLR 317 one year limitation.

11. This operates to prejudice Plaintiff because it has expended time and money in executing on the judgment over many years which is one of the hidden purposes of CPLR 317.

12. Defendant knew of the judgment and simply failed to act on it in time.

13. Moreover, Plaintiff is prejudiced because if the judgment is vacated under CPLR 5015(a)(4) [jurisdiction analysis] it would entitle Plaintiff to a traverse hearing on the issue of service which was not ordered.

14. The court originally vacated the judgment based upon CPLR 5015(a)(1) [meritorious defense / reasonable excuse] in violation of the CPLR 317 one year limitation.

15. This decision must be vacated because Defendant failed to move within one year of knowing of the judgment.

16. The court did not apply the CPLR 5015(a)(4) [jurisdictional analysis], in fact, both decisions contain no facts or analysis on the issue of proper service and jurisdiction.

17. The Defendant was properly served creating a presumption of service, and the Defendant knew of the judgment for many years and chose not to act to the detriment of Plaintiff.

18. CPLR 2221(d) states that a motion to reargue "shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion."

19. "A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law." *Foley v. Roche*, 68 A.D.2d 558, 567 (1st Dep't 1979); *McGill v. Goldman*, 261 A.D.2d 593 (2d Dep't 1999); *Opton Handler Gottlieb Feiler Landau & Hirsch v. Patel*, 203 A.D.2d 72 (1st Dep't 1994); *Loris v. S&W Realty Corp.*, 16 A.D.3d 729, 730 (3d Dep't 2005) (noting that a motion for leave to reargue is left to the sound discretion of the court, and may be granted even when "the criteria for granting a reconsideration motion are not technically met").

20. As set forth above, the court misapplied a controlling principle of law, e.g. CPLR 5015(a)(1), CPLR 5015(a)(4), and CPLR 317.

21. As such, the court's decisions dated October 14, 2015 and May 7, 2015 must be vacated and the instant judgment reinstated in full force and effect.

22. Plaintiff has made one prior order to show cause dated June 2, 2015.

23. The court issued a decision/order on October 14, 2015 and to date a notice of entry has not been served; as such, the instant application is timely.

WHEREFORE, your affirrant respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Dated: Port Chester, New York
January 5, 2016

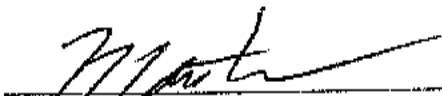

Matthew Kasper, Esq.

EXHIBIT 1 • EXHIBIT 2 • EXHIBIT 3 • EXHIBIT 4 • EXHIBIT 5

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,

Index No. 100350/08
File No. 4778

Plaintiff,

- against -

LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

It is hereby ordered that the
Civil Court City of NY - Bronx County
for Lawyers and Attorneys to APPEAR
in Court on the Return Calendar Date
to Respond to ORDERS TO SHOW CAUSE

UPON THE ANNEXED AFFIRMATION OF Matthew Kasper, Esq., sworn on
June 2, 2015, and upon all prior papers and proceedings heretofore had herein,

LET DEFENDANT AND/OR HER ATTORNEYS SHOW CAUSE before ME
OR ONE OF THE Judges of this Court at Part 34C, Room 504 in the Civil Court of
the City of New York, County of Bronx, State of New York, located at 851 Grand
Concourse, New York, on the 26th day of June, 2015 at 9:30 am in the forenoon of
that day or as soon thereafter as counsel can be heard why an Order should not be made
pursuant to CLPR 2221:

1. Granting reargument of Defendant's motion seeking vacatur of the instant judgment;
2. Amending Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied;
3. Alternatively, vacating Judge Saunders' Decision and Order dated May 12, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety.

LET all proceedings on the part of the Defendant, Defendant's attorney, agents, successors and assignees be stayed.

NOW, SUFFICIENT CAUSE HAVING BEEN ALLEGED AND APPEARING

THEREFOR, let service of a copy of this Order, and the papers upon which it is based,

upon the Defendant at 1468 Bryant Ave., Apt. 4B, Bronx, New York 10460, by

Certified mail Return Receipt Requested, on or before the 17th day of June, 2015, be
deemed service good and sufficient.

Dated: Bronx, New York
June 9, 2015

JUN 09 2015

J.C.C.

HON. VERA L. SAUNDERS

PROOF OF SERVICE SHALL BE FILED
WITH THE CLERK OF CIVIL COURT,
ON THE RETURN DATE.

in a depository under the exclusive dominion and control of the United States
Postal Service within the State of New York via certified mail, return receipt requested,
referenced by the tracking number 917199793522867334.

Matthew D. Kasper
Matthew D. Kasper, Esq.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX
-----X
KELLY STREET REALTY, INC.,

INDEX NO. 100350/08
FILE NO. 4778

Plaintiff,

AFFIRMATION IN
SUPPORT OF ORDER TO
SHOW CAUSE

- against -

LAURA MARRERO,

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Courts of the State of New York hereby affirms the following under the penalty of perjury.

1. I am an associate of the law firm of Kavulich & Associates, P.C., attorneys for the Plaintiff, herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the Court's file, and information contained within the file as maintained by your affirmant's office.

2. I make this affirmation which seeks an order granting reargument of Defendant's motion seeking vacatur of the instant judgment; amending Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied; alternatively, vacating Judge Saunders' Decision and Order dated May 12, 2015 and issuing a new Decision and Order denying Defendant's motion in its entirety. Annexed hereto as Exhibit "1" is a copy of this Court's Decision and Order at issue. Annexed hereto as Exhibit "2" is a copy of Defendant's motion and Plaintiff's opposition.

3. CPLR 2221(d) states that a motion to reargue "shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion."

4. "A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law." *Foley v. Roche*, 68 A.D.2d 558, 567 (1st Dep't 1979); *McGill v. Goldman*, 261 A.D.2d 593 (2d Dep't 1999); *Opton Handler Gottlieb Feiler Landau & Hirsch v. Patel*, 203 A.D.2d 72 (1st Dep't 1994); *Loris v. S&W Realty Corp.*, 16 A.D.3d 729, 730 (3d Dep't 2005) (noting that a motion for leave to reargue is left to the sound discretion of the court, and may be granted even when "the criteria for granting a reconsideration motion are not technically met").

5. Plaintiff respectfully raises issue as to the omission in Judge Saunders' Decision/Order dated May 7, 2015 of any discussion addressing Plaintiff's argument asserting that granting Defendant's motion would facially violate CPLR 317.

6. CPLR 317 states in relevant part as follows:

A person served with a summons other than by personal delivery to him or to his agent for service designated under rule 318, within or without the state, who does not appear may be allowed to defend the action within one year after he obtains knowledge of entry of the judgment

7. Here, Plaintiff raised this argument in paragraph 17 of its affirmation in opposition.

8. Moreover, Plaintiff cited a New York City Civil Court case which is on all fours with the facts of the instant case illustrating the application of CPLR 317. *See Elite*

Recovery Services, Inc. v. R. Howard Heirich, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

9. Simply stated, Defendant admitted knowing of the instant judgment for more than two years and failed to move to vacate the judgment, in fact she acquiesced in the existence of the judgment. (*See Paragraphs 18-25 of Plaintiff's affirmation in opposition annexed hereto as Exhibit 2*).

10. Further, Defendant submitted no reply and offered no response to the Plaintiff's argument applying the one year limitation as set forth in CPLR 317.

11. Respectfully, the applicability of CPLR 317 was not discussed or even mentioned in Judge Saunders' decision and order dated May 7, 2015.

12. Stated another way, the existence and applicability of CPLR 317 precludes the CPLR 5051 (meritorious defense / excusable default) analysis.

13. The fact that Defendant may have an excusable default and a meritorious defense is immaterial if she failed to move within the CPLR 317 one year limitation.

14. Without any factual support or argument against the applicability of CPLR 317, this Court is powerless to vacate the judgment as it did in the aforementioned decision and order.

15. As such, allowing the decision and order at issue to remain in force and effect would be clear error.

16. Furthermore, Plaintiff has expended a substantial amount of time and money in overseeing and conducting the over two year collection effort which took place while Defendant hesitated and acquiesced in the existence of the judgment in clear violation of CPLR 317.

17. Allowing the judgment to now be vacated would operate as prejudice to Plaintiff to the extent that the lengthy and costly lawful collection efforts expended by Plaintiff will all go to waste.

18. Therefore, this Court must grant Plaintiff's instant application and either (a) amend Judge Saunders' Decision and Order dated May 12, 2015 to the extent that Defendant's motion is denied; or (b) alternatively, vacate Judge Saunders' Decision and Order dated May 12, 2015 and issue a new Decision and Order denying Defendant's motion in its entirety on the basis that Defendant failed to move within one year of knowing of the existence of the judgment in accord with CPLR 317.

19. This is Plaintiff's first Order to Show Cause to reargue this Court's decision and order dated May 7, 2015.

20. This Order to Show Cause is timely as the underlying decision and order was entered on May 12, 2015 and a notice of entry was served on May 19, 2015 thereby allowing Plaintiff until June 18, 2015 to make the instant application. Annexed hereto as Exhibit "3" is a copy of the notice of entry.

WHEREFORE, your affirmant respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Dated: Port Chester, New York
June 2, 2015


Matthew Kasper, Esq.

EXHIBIT 1

4778

Civil Court of the City of New York

County of Bronx

Part 34

Index Number

CV 100350-LS BX

Kelly Street Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Morero

Defendant(s)/Respondent(s)

DECISION/ORDER

Defendant moves the court seeking to vacate the default judgment entered against her.

Defendant argues that she never received notice of the lawsuit and that she vacated the ~~apartment~~ subject premises due to a fire which resulted in her being placed in an emergency shelter by the Red Cross and being ultimately relocated.

Defendant further argues that she does not owe the rent in dispute because the tenancy at issue was subsidized by Section 8.

Plaintiff opposes the motion on the ground that defendant knowingly disregarded evictive measures and lacks an equitable default and meritorious defense.

It is well-settled that Court has discretion in the exercise. While the Court is not unkindful, the length of time which has

Date

Judge, Civil Court

(CV-CP-41 (January, 1991))

page 103

(4748)

Civil Court of the City of New York

County of Bronx
Part 34

Index Number 01 100350 1.7 Pk

Kelly Street Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura M. Miller

Defendant(s)/Respondent(s)

DECISION/ORDER

elapses since the judgment was entered, serious questions are raised regarding whether the debt here to wit, Rental arrears, are attributable to the defendant. Aside from the obvious troubling issue of a fire allegedly decimating the subject premises, Section 8 rules prohibit the tenant being charged for more than his/her "tenant share" of the rent.

Accordingly, the Court is satisfied that the defendant has come forward with an evincible, default and meritorious defense to warrant granting the instant order to show cause.

The judgment is vacated and any and all process of writs, garnishments, bank restraints and executions, sherriffs or marshal levies are vacated. Any moneys collected in connection with the judgment shall be returned forthwith.

The answer answered to the defendant's order to show cause

Date

Judge, Civil Court

4778

Civil Court of the City of New York

County of BRONX

Part 34

Index Number

01 100250-02 EX

Kelly Street Realty, Inc.

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Mancini

Defendant(s)/Respondent(s)

DECISION/ORDER

is deemed filed and entered in this matter and the
defendant may answer same within 20 days of the date of
this order.

The matter is restored to the calendar for a pre trial
conference July 8, 2015 at 9:30 A.M. Defendant is to subpoena
Section 8.

Defendant shall serve a copy of this order with notice of entry
within 10 days by 1st class mail with certificate of mailing.
This constitutes the decision and order of the Court.

ENTERED
BRONX COUNTY

MAY 12 2015

Civil Court
of the
City of New York

5/7/15

Date

Judge, Civil Court

HON. VERNA L. SAUNDERS

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX- PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff.

-against-

AFFIRMATION IN
OPPOSITION

LAURA MARRERO,

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Court of the State of New York, hereby affirms under the penalty of perjury:

1. I am an associate of Kavulich & Associates, P.C., attorneys for the Plaintiff herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated upon information and belief, as to those matters I believe them to be true. The basis of my belief is information supplied to me by my client, information contained within the court file and information maintained within my office.

2. I make this affirmation in opposition to the Defendant VERONICA MORENO's Order to Show Cause which seeks to vacate the instant judgment issued on default. Please see Respondent's instant Order to Show Cause and Proposed Answer annexed hereto as Exhibit "1."

STATEMENT OF THE UNDISPUTED FACTS

1. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building. Annexed hereto as Exhibit "2" is the affidavit of Anto Lulaj, agent of Plaintiff.

2. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

3. Almost immediately thereafter, Defendant began to accumulate rental arrears.
4. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.
5. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.
3. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.
4. Defendant was served with a summons and complaint via conspicuous service on November 8, 2008. Annexed hereto as Exhibit "3" is a copy of the summons, complaint, and affidavit of service.
5. The Plaintiff had not been contacted by the Defendant since they vacated the subject premises and until many years after she was notified by the wage garnishment that was issued by your affiant's office. Annexed hereto as Exhibit "4" is a copy of the income execution.
6. Defendant now moves to vacate the default judgment issued on February 26, 2009.

THE DEFENDANT'S INSTANT MOTION DOES NOT DEMONSTRATE AN
EXCUSABLE DEFAULT AND MERETORIOUS DEFENSE. THEREFORE THE
MOTION SHOULD BE DENIED

7. In order to prevail on this instant motion, Defendant must prove both an excusable default *and* meritorious defense as upon showing of both of those prongs, vacating a default judgment is proper. CPLR 5051(a)(1); *Bank of Am. v. Faracco*, 89 AD3d 879 [2d Dep't 2011]; *Community Preserve. Corp. v. Bridgewater condominiums, LLC*, 89 AD3d 784 [2d Dep't 2011].
8. Moreover, should Defendant demonstrate a reasonable excuse for the default, a Court must nonetheless uphold the default judgment when the Respondent's papers submitted in support thereof are replete with self-serving, vague, unsubstantiated denials, and unsupported

legal conclusions. *Thapt v. Lutheran Med. Ctr.*, 89 AD3d 837 [2d Dep't 2011]; *Garaf Wholesalers, Ltd. v. Raven Brands, Inc.*, 82 AD3d 1041 [2d Dep't 2011].

9. It is respectfully stated to the Court that Defendant has failed to demonstrate both prongs and that this motion must be denied.

10. Defendant alleges that she was not served with the summons and complaint, however she offers no support for this such as an explanation of where she was living at the time or a suggestion as to how process did not end up in her possession.

11. A process server's affidavit constitutes prima facie evidence of proper service pursuant to CPLR 308(4). *City of New York v. Miller*, 2010 NY Slip Op 03059 (2d Dep't 2010).

12. Defendant's self-serving and conclusory statements are insufficient to rebut the presumption of service.

13. Moreover, Defendant alleges that she was "burned out of this residence."

14. Again, without support or even an iota of specificity as to when this purported fire took place, and what happened during the fire requiring Defendant's vacature.

15. In fact, Defendant vacated the apartment due to the commencement of a housing court case as a result of her failure to pay rent. Please see the aforementioned Exhibit "2."

16. Accordingly, Defendant fails to set forth a legally cognizable meritorious defense and reasonable excuse for her default.

DEFENDANT IS CHARGED WITH NOTICE OF THE INSTANT LITIGATION SUCH THAT HER APPLICATION IS UNTIMELY AS A MATTER OF LAW

17. CPLR 317 requires an applicant seeking to vacate a default judgment to have an application within one year of knowing of the judgment.

18. A New York City Civil Court, in a case on point applying CPLR 317 and involving a judgment-debtor's Order to Show Cause pursuant to CPLR 5051 seeking vacatur of a default judgment after ignoring an income execution of twenty-months - denied the judgment-debtor's

application. *Elite Recovery Services, Inc. v. R. Howard Hebrich*, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

19. In denying the judgment-debtor's application for vacatur, the Court discussed its rationale as follows:

Defendant has not set forth any excuse as to why he ignored an income execution against his wages for twenty-months. The execution went into effect in June 2009 and defendant did not make this motion until February 2011. It is not credible that the defendant did not have either actual or constructive knowledge of the litigation as he had been having his wages garnished for over a year. As noted above, the policy of this court is to try to have all cases decided on the merits. However, the justice system assumes that people will act to challenge a judgment wrongfully entered against them within a reasonable amount of time after obtaining notice of it and that they will act in an expeditious manner to address such a situation. The actions of the defendant do not even approach "diligence" let alone "due diligence."

Id. at *4.

20. Here, Defendant was served with an income execution on September 26, 2012.

21. As a result, her income was continuously garnished from December 5, 2012 (the first payment) through to the service of the instant Order to Show Cause on or about March 10, 2015 -- over two years.

22. In fact, Defendant states that she "never found out about this until I started being garnished from my pay check" Please see the aforementioned Exhibit "1." (emphasis added).

23. Defendant admits knowing about the garnishment the day it began, yet waited over two years to make the instant application which, as held in *Elite Recovery*, is not even close to due diligence as required by CPLR 317.

24. Therefore, even assuming *arguendo* that the Defendant offers an excusable default and meritorious defense, the Defendant's failure to address her default in almost 2 years combined

with her knowing disregard for the aforementioned execution measures should not be countenanced.

25. As such, Defendant's Order to Show Cause should be denied as untimely pursuant to CPLR 517.

WHEREFORE, as no legal or equitable basis has been stated or exists, Plaintiff respectfully asks that this Court deny the instant motion.

Dated: April 10, 2015
Port Chester, NY

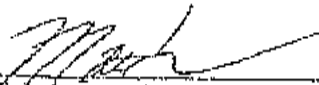

Kavulich & Associates, P.C.
By: Matthew Kasper, Esq.
Attorney for Plaintiff
181 Westchester, Ave., Suite 500C
Port Chester, NY 1057
(914) 355-2074

EXHIBIT 1

DIY

Civil Court of the City of New York
County of Bronx

Index Number: CV-100350-08/BX



ORDER TO SHOW CAUSE

To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

UPON the annexed Affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of any judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s):
(Judge to initial)

Sheriff or Marshal:
(Judge to initial)

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

☐ by Personal Service by "In Hand Delivery"
☐ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

on or before March 10th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Plaintiff),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Saunders, Clerk of the Court
HON. VERNA L. SAUNDERS, Judge (NYC)

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGENCY SHELTER I HAVE NO IDEA

Affidavit in Support of an Order to Show Cause to Vacate a Default Judgment
Made using the NYS Courts FREE DIY Forms

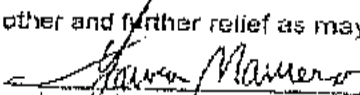
Page 1 of 2

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.


6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND
MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST
EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS
GARNISHMENT HAS PUT A FINICAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALIED BARTON SECURITY
SERVICES LLC ATTN PAYROLL 151 WASHINGTON ST STE 600 B TOWER
BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all
restraints and executions, order restitution, and upon vacatur, dismiss this case for
lack of personal jurisdiction, or in the alternative, deem the attached Proposed
Answer timely filed, restore the case to the calendar, grant me permission to serve
these papers myself, and grant me such other and further relief as may be just.


Laura Marrero, Defendant

Sworn to before me this _____ day
of MAR 10 2015


Notary Public or Court Clerk

<input checked="checked" type="checkbox"/>	I.D. Presented Type: <u>PS DL</u>
<input type="checkbox"/>	No I.D. Provided

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx
PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION

Movan's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

VERIFICATION

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Laura Marrero
Laura Marrero, Defendant

Sworn to before me this MAR 10 day
of 20, 20

Aracelis Ace
Notary Public or Court Clerk

I.D. Presented Type: <u>MSDL</u>
No I.D. Provided

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
File No. 4778

-----x
KELLY STREET REALTY, INC.,

Plaintiff,

AFFIDAVIT

-against-

LAURA MARRERO,

Defendant.
-----x

STATE OF NEW YORK)
) SS
COUNTY OF BRONX)

I, Anto Lulaj, being duly sworn deposes and says:

1. I am the agent for the Plaintiff, KELLY STREET REALTY, INC., herein and, as such, I am fully familiar with the facts and circumstances of this proceeding as I am responsible for, *inter alia*, leasing of apartments, and overseeing maintenance of the property when required.

2. I was the agent during the time in issue of this proceeding.

3. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building.

4. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

5. Almost immediately thereafter, Defendant began to accumulate rental arrears.

6. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.

7. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

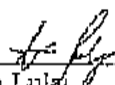
8. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

9. My attorneys have advised me that judgment was entered against the Defendant and that we have been collecting on an income execution since December, 2012.

WHEREFORE, your deponent respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Sworn to before me this
7th day of April, 2015

Notary Public


Anto Lulaj

GARY KAVULICH
Notary Public, State of New York
No. 02KAS205615
Qualified in Westchester County
Commission Expires May 11, 2017

EXHIBIT 3

CONSUMER CREDIT TRANSACTION. THIS IS AN ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION OBTAINED WILL BE USED TO COLLECT THIS DEBT.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X

Kelly Street Realty, Inc.,
Plaintiff,

INDEX NO.
FILE NO. 4778

-against-

SUMMONS
Place of Venue is Plaintiff's
place of business:

Laura Marrero,

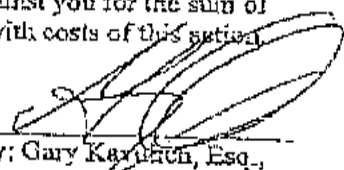
928 Kelly Street
Bronx, NY 10459

Defendant(s)

-----X
To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF
NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand
Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the
time provided by law as noted below and to file an answer to the below complaint with the
clerk: upon your failure to answer, judgment will be taken against you for the sum of
\$23,338.92 with interest thereon from May 1, 2003 together with costs of this action.

DATED: October 22, 2008


By: Gary Kayelich, Esq.,
Kayelich & Associates, P.C.
Attorney for Plaintiff
30 Church Street
Suite 26
New Rochelle, NY 10801
(914) 355-2074

Defendant's Address:
Laura Marrero
2303 Belmont Avenue, Apt. 5
Bronx, NY 10458-8343

Note: The law provides that: (a) If the summons is served by its delivery to you personally
within the City of New York, you must appear and answer within TWENTY days after such
service; or (b) If the summons is served by any means other than personal delivery to you
within the City of New York, you must appear and answer within THIRTY days after proof of
service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$22,838.92 representing rental arrears for the months of May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly sum of \$1,306.66 for the premises known as 928 Kelly Street, Apt.#1 Bronx, NY 10459 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$0.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$22,838.92 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of 0.000 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
Filed: _____

Attorneys: Kavulich & Associates, P.C.

Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

KELLY STREET REALTY INC,

vs.

LAURA MARRERO.

State of New York County of Nassau SS:

Aston G. Evans [], being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41p.m.

At 2303 Belmont Avenue, Apt 5, Bronx, NY 10458 served the within Summons and Complaint on LAURA MARRERO. Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion. Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.

Affixing to Door ☐ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☒ dwelling house (place of abode) within the state

Mail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1" Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.

On the 7th day of November, 2008 at 4:20p.m.

On the 8th day of November, 2008 at 6:41p.m.

Description: A description of the Defendant, or other person served on behalf of the Defendant

☐ Sex: _____ Color of skin: _____ Color of hair: _____ Age: _____ Height: _____ Weight: _____

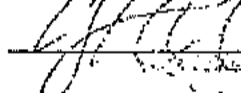
Military Service ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was

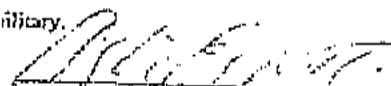
informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.

Sworn to before me on this 10 day of 11/08


Aston G. Evans
Notary Public
State of New York


Aston G. Evans II
LIC# 1220069

Notary Public
State of New York
10

EXHIBIT 4

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Court Index No. 100356700
File No. 4778.0

Kelly Street Realty, Inc.,

Plaintiff

Against

Laura Marrero,

Defendant(s).

INCOME EXECUTION

The People of the State
of New York

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within court:

Court/Judgment Entry	Entry Date	Original Amount	Amount Due	Plus Interest From
CIVIL COURT OF THE CITY OF NEW YORK ALL COUNTY OF BRONX	2/26/2009 12:03:40 AM	\$33,813.57	\$33,813.57	2/26/2009 12:03:40

The judgment was recovered against Laura Marrero
And transcribed with the county clerk(s) of Bronx

defendant (judgment debtor)

WHEREAS, this execution is issued against Laura Marrero
whose last known address is: 1308 Belmont Avenue
Apt. 5 Bronx, NY 10468-0343
and said defendant (judgment debtor) is receiving or will receive from the Employer whose name and address is:
Allied Barton Security Services LLC 161 Washington Street 5th Floor Tower Building
Conshohocken, PA 19425 ATTN: Payroll

defendant (judgment debtor)

More than \$
This execution

per week, to wit \$
per week, and/or other No.
3876

to be paid weekly installment of \$
Every other Substition

each
Bills

You are directed to satisfy the judgment with interest together with your fees and expense, out of all moneys now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR § 6231 & 16 U.S.C 1671, et. Seq.
Notice to Judgment Debtor: You are notified and commanded within 20 days to start paying to the Enforcement Officer serving a copy of this Income Execution on you installments amounting to 10% but no more than the Federal limits set forth in 1. Installments on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Officer.
Notice to the Employer: You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you installments amounting to 10% (but no more than the Federal limits set forth in 1. Installments on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expenses of this Income Execution are fully paid and satisfied.

Dated
9/26/2012

Gary Kavulich Esq.
Kavulich & Associates, P.C.
101 Westchester Avenue, Suite 5000
Port Chester, NY 10573
(914) 355-2074

* "Employer," herein, includes any payer of money to Judgment Debtor.

Important Statement

This taxenat execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that level of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rules § 6231 and 15 United States Code § 1671 et seq.

I. Limitation on the amount that can be withheld

- An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (10%) of the judgment debtor's gross income.

- B. If a judgment debtor's weekly disposable earnings are less than thirty (30) times the current federal minimum wage (\$6.56 per hour), or \$175.50* No deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot reduce below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$6.56* per hour), or \$175.50* under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's disposable earnings, no deduction can be made from the judgment debtor's earnings under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any orders for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount, which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. Explanation of Limitations

Definitions

Disposable Earnings - Disposable earnings are the net of an individual's earnings after deducting those amounts that are required by law to be withheld (for example, taxes, social security and unemployment insurance), but not deduction for union dues, insurance, etc.)

Gross Income - Gross income is salary, wages or other income, including any and all overtime earnings, commissions, and income from trusts, before any deductions are made from such income.

Illustrations regarding earnings

If disposable earnings is:

- (a) 30 times federal minimum wage (\$175.50*) or less

Amount to pay or deduct from earnings under this income execution

No payment or deduction allowed

- (b) More than 30 times federal minimum wage (\$175.50*) and less than 40 times federal minimum wage (\$234.00*)

The less of the excess over 30 times the federal minimum wage (\$175.50*) in disposable earnings, or 10% of gross earnings.

- (c) 40 times the federal minimum wage (\$234.00*) or more

The less of 25% of disposable earnings or 10% of gross earnings.

III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR § 5231 (c) and CPLR § 5240.

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment. If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged.

CPLR § 5231 (c) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

CPLR § 5240 Modification or protective order: supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order delaying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure, including the use of income executions.

*Based upon \$4.25 minimum hourly wage. Recalculate and insert correct figures if the minimum hourly wage changes.

Enforcement

Date and Time execution received:

Installments paid to _____ have satisfied the judgment to the extent of \$ _____

Principal and \$ _____ interest.

Levy on _____ County _____

Return to the judgment creditor or his attorney on _____ because of inability to

Find garnishee in the county.

Levy on _____ County _____

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

-against-

AFFIRMATION OF
SERVICE

LAURA MARRERO,

Defendant.
-----X

Gary Kavulich, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On April 10, 2015, I served the within Affirmation in Opposition upon the movant in this action, by depositing a true copy in a post-paid envelope addressed to:

Laura Marrero
1468 Bryant Ave., Apt. 4B
Bronx, NY 10460

in an official depository under the exclusive dominion and control of the United States Postal Service within the State of New York via regular first class mail



Gary Kavulich, Esq.

INDEX NO. 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,
Plaintiff,


- against -

LAURA MARRERO,
Defendant.

AFFIRMATION IN OPPOSITION

Signature Rule 130-1.1-a

Print Name Beneath -


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorneys for Plaintiff
181 Westchester Ave., Suite 500C
Port Chester, NY 10573
(914) 355-2074

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

4778

Civil Court of the City of New York
County _____

Index Number: CV-1000350/08-BX

Kelly Street Realty Inc

Plaintiff(s),

NOTICE OF ENTRY

-against-

Laura Herrera Defendant(s)

Please take notice that the within is a true copy of a(n)

DECISION ORDER JUDGMENT duly entered in the office of the Clerk of the Civil Court of
(choose one)
the City of New York, County of New York, on the 12 day of May, 2015.

Dated: 5-19-2015

Signature: x Laura Herrera

Print Name: Laura Herrera

Address: 1468 Broadway #40
Brook New York 10460

Sworn to before me this 19 day

of May, 2015

Paulina B. Reyes
(Notary Public)

CTV-GP-105 (Revised 01/04)

PAULINA B. REYES
NOTARY PUBLIC, State of New York
No. 04RE6193996
Qualified in Bronx County
Commission Expires Sept. 18, 2016

INDEX NO: 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

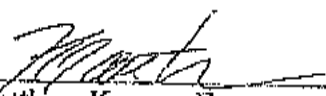
LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

Signature Rule 130-1.1-a

Print Name Beneath


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorney for Plaintiff
181 Westchester Ave., Suite 500-C
Port Chester, NY 10573
(914)355-2074

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX : PART 34

-----X
KELLY STREET REALTY, INC.,
Plaintiff,

Index No. CV 100350-08

-against-

DECISION and ORDER

LAURA MARRERO,
Defendant-
-----X

HON. VERNA L. SAUNDERS, J.C.C.:

Recitation, as required by CPLR 2219(a), of the papers considered in the review of Plaintiff's motion to reargue.

Papers	Numbered
Order to Show Cause	1

The Court, in its prior decision/order of May 8, 2015, granted defendant's motion to vacate a default judgment entered against her. The underlying case between the parties was a landlord-tenant matter and the motion was granted, in part, on the basis that the judgment was comprised, from monies owed by Section 8. Plaintiff here moves for relief arguing that the Court overlooked or misapprehended facts or misapplied controlling law, specifically CPLR §317.

A motion to reargue is addressed to the discretion of the trial court and is designed to afford a party opportunity to establish that the Court overlooked or misapprehended relevant facts or misapplied controlling principles of law in determining the prior motion. See *CPLR §2221(d)*. Here, the plaintiff argues that the Court failed to consider CPLR § 317 in determining the prior motion. Plaintiff avers that vacatur of the default judgment is precluded as the defendant failed to timely request relief inasmuch as a period of two years after judgment elapsed before plaintiff moved the court.

As to the underlying motion to vacate the judgment, the unrepresented defendant moved the court pursuant to CPLR §5015 (a)(4), not CPLR § 317. While the court can consider a single motion

under both CPLR sections 317 and 5015, see *Pena v Mittleman*, 179 AD2d 607 (App Div, 1st Dept) (1992), here, the movant articulated the section under which relief was sought, (CPLR §5015 (a)(4)) and substantiated the basis for the motion. Plaintiff argues that meeting the strictures of CPLR § 317 is a prerequisite to relief being granted under CPLR § 5015(a)(4). However, relief sought pursuant to CPLR § 5015 (a)(4) has no time stated time limit and the request can be made at any time. See *Caba v Rai*, 63 AD3d 578 (App Div, 1st Dept) (2009) citing, *Siegel Practice Commentaries*, *McKinney's Cons Laws Book* 7B, CPLR §C5015:3, at 205-206.

Here, the Court found the defendant's assertions credible. Further, the allegations that the tenancy was subsidized by federal Section 8 rules and that there was a fire in the premises necessitating defendant's vacatur of the premises and subsequent relocation, constitute a sound basis upon which relief was granted. Again, it is well-settled that courts favor disposition on the merits.

Accordingly, the motion is denied and the May 8, 2015 order of the Court vacating the default judgment stands. As this matter was previously calendared for November 5, 2015, 9:30 A.M., all parties shall appear on that date.

This constitutes the decision and order of the Court.

Dated: Bronx, New York
October 14, 2015

Kauvalich & Associates, PC
By: Matthew Kasper, Esq.
Attorneys for Plaintiff



VERÓNICA L. SAUNDERS, J.C.C.
Laura Marrero
Respondent

EXHIBIT 3

Civil Court of the City of New York
County of Bronx

DIY

Index Number: CV-100350-08/BX

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

4778
ORDER TO SHOW CAUSE
To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed Affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause in:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:
Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

☐ by Personal Service by "In Hand Delivery"
☐ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office Certificate of Mailing

on or before March 10th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Plaintiff),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Sanders, Clerk of the Court, Civil Court of the City of New York (NYC)

HON. VERN A. L. SANDERS

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGENCY SHELTER I HAVE NO IDEA

Affidavit in Support of an Order to Show Cause to Vacate a Default Judgment
Made using the NYS Courts FREE DIY Form

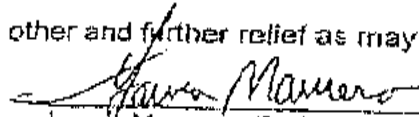
Page 1 of 2

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.

6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS GARNISHMENT HAS PUT A FINICAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALIIED BARTON SECURITY SERVICES LLC ATTN PAYROLL 151 WASHINGTON ST STE 600 B TOWER BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacalur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Proposed Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.


Laura Marrero, Defendant

Sworn to before me this _____ day
of MAR 10 2015


Notary Public or Court Clerk

<input checked="checked" type="checkbox"/>	I.D. Presented Type: <u>NYSDC</u>
<input type="checkbox"/>	No I.D. Provided

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx
PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGENCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

NO

EXHIBIT 4

EXHIBIT 5

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

INDEX NO. 100350/08
FILE NO. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

-against-

AFFIRMATION IN
OPPOSITION

LAURA MARRERO,

Defendant.
-----X

Matthew Kasper, Esq., an attorney duly admitted to practice law before the Court of the State of New York, hereby affirms under the penalty of perjury:

1. I am an associate of Kavulich & Associates, P.C., attorneys for the Plaintiff herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated upon information and belief, as to those matters I believe them to be true. The basis of my belief is information supplied to me by my client, information contained within the court file and information maintained within my office.

2. I make this affirmation in opposition to the Defendant VERONICA MORENO's Order to Show Cause which seeks to vacate the instant judgment issued on default. Please see Respondent's instant Order to Show Cause and Proposed Answer annexed hereto as Exhibit "1."

STATEMENT OF THE UNDISPUTED FACTS

1. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building. Annexed hereto as Exhibit "2" is the affidavit of Anto Lulaj, agent of Plaintiff.

2. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

3. Almost immediately thereafter, Defendant began to accumulate rental arrears.

4. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.

5. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

3. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

4. Defendant was served with a summons and complaint via conspicuous service on November 8, 2008. Annexed hereto as Exhibit "3" is a copy of the summons, complaint, and affidavit of service.

5. The Plaintiff had not been contacted by the Defendant since they vacated the subject premises and until many years after she was notified by the wage garnishment that was issued by your affiant's office. Annexed hereto as Exhibit "4" is a copy of the income execution.

6. Defendant now moves to vacate the default judgment issued on February 26, 2009.

THE DEFENDANT'S INSTANT MOTION DOES NOT DEMONSTRATE AN
EXCUSABLE DEFAULT AND MERITORIOUS DEFENSE. THEREFORE THE
MOTION SHOULD BE DENIED

7. In order to prevail on this instant motion, Defendant must prove both an excusable default *and* meritorious defense as upon showing of both of those prongs, vacating a default judgment is proper. CPLR 5051(a)(1); *Bank of Am. v. Faracco*, 89 AD3d 879 [2d Dep't 2011]; *Community Preserve. Corp. v. Bridgewater condominiums, LLC.*, 89 AD3d 784 [2d Dep't 2011].

8. Moreover, should Defendant demonstrate a reasonable excuse for the default, a Court must nonetheless uphold the default judgment when the Respondent's papers submitted in support thereof are replete with self-serving, vague, unsubstantiated denials, and unsupported

legal conclusions. *Thapt v. Lutheran Med. Ctr.*, 89 AD3d 837 [2d Dep't 2011]; *Garaf Wholesalers, Ltd. v. Raven Brands, Inc.*, 82 AD3d 1041 [2d Dep't 2011].

9. It is respectfully stated to the Court that Defendant has failed to demonstrate both prongs and that this motion must be denied.

10. Defendant alleges that she was not served with the summons and complaint, however she offers no support for this such as an explanation of where she was living at the time or a suggestion as to how process did not end up in her possession.

11. A process server's affidavit constitutes prima facie evidence of proper service pursuant to CPLR 308(4). *City of New York v. Miller*, 2010 NY Slip Op 03059 (2d Dep't 2010).

12. Defendant's self-serving and conclusory statements are insufficient to rebut the presumption of service.

13. Moreover, Defendant alleges that she was "burned out of this residence."

14. Again, without support or even an iota of specificity as to when this purported fire took place, and what happened during the fire requiring Defendant's vacature.

15. In fact, Defendant vacated the apartment due to the commencement of a housing court case as a result of her failure to pay rent. Please see the aforementioned Exhibit "2."

16. Accordingly, Defendant fails to set forth a legally cognizable meritorious defense and reasonable excuse for her default.

DEFENDANT IS CHARGED WITH NOTICE OF THE INSTANT LITIGATION SUCH THAT HER APPLICATION IS UNTIMELY AS A MATTER OF LAW

17. CPLR 317 requires an applicant seeking to vacate a default judgment to have an application within one year of knowing of the judgment.

18. A New York City Civil Court, in a case on point applying CPLR 317 and involving a judgment-debtor's Order to Show Cause pursuant to CPLR 5051 seeking vacatur of a default judgment after ignoring an income execution of twenty-months - denied the judgment-debtor's

application. *Elite Recovery Services, Inc. v. R. Howard Hebrich*, 31 Misc. 3d 1222, 930 N.Y.S.2d 174 (2011).

19. In denying the judgment-debtor's application for vacatur, the Court discussed its rationale as follows:

Defendant has not set forth any excuse as to why he ignored an income execution against his wages for twenty-months. The execution went into effect in June 2009 and defendant did not make this motion until February 2011. It is not credible that the defendant did not have either actual or constructive knowledge of the litigation as he had been having his wages garnished for over a year. As noted above, the policy of this court is to try to have all cases decided on the merits. However, the justice system assumes that people will act to challenge a judgment wrongfully entered against them within a reasonable amount of time after obtaining notice of it and that they will act in an expeditious manner to address such a situation. The actions of the defendant do not even approach "diligence" let alone "due diligence."

Id. at *4.

20. Here, Defendant was served with an income execution on September 26, 2012.

21. As a result, her income was continuously garnished from December 5, 2012 (the first payment) through to the service of the instant Order to Show Cause on or about March 10, 2015 — over two years.

22. In fact, Defendant states that she "never found out about this until I started being garnished from my pay check" Please see the aforementioned Exhibit "1." (emphasis added).

23. Defendant admits knowing about the garnishment the day it began, yet waited over two years to make the instant application which, as held in *Elite Recovery*, is not even close to due diligence as required by CPLR 317.

24. Therefore, even assuming *arguendo* that the Defendant offers an excusable default and meritorious defense, the Defendant's failure to address her default in almost 2 years combined

with her knowing disregard for the aforementioned execution measures should not be countenanced.

25. As such, Defendant's Order to Show Cause should be denied as untimely pursuant to CPLR 317.

WHEREFORE, as no legal or equitable basis has been stated or exists, Plaintiff respectfully asks that this Court deny the instant motion.

Dated: April 10, 2015
Port Chester, NY

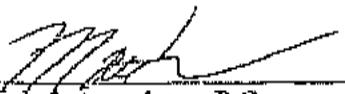

Kavulich & Associates, P.C.
By: Matthew Kasper, Esq.
Attorney for Plaintiff
181 Westchester, Ave., Suite 500C
Port Chester, NY 1057
(914) 355-2074

EXHIBIT 1

Civil Court of the City of New York
County of Bronx

DIY

Index Number: CV-100350-08/1X

KELLY STREET REALTY INC.
-against-
LAURA MARRERO

ORDER TO SHOW CAUSE

To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed affidavit of LAURA MARRERO, sworn to on March 10, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on MARCH 23, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

☐ by Personal Service by "In Hand Delivery"
☒ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office
Certificate of Mailing

☐ by Personal Service by "In Hand Delivery"
☐ by Certified Mail, Return Receipt Requested
☐ by First Class Mail with official Post Office
Certificate of Mailing

on or before March 16th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:
Kavulich & Associates PC (Counsel for Plt),
181 Westchester Avenue, Suite 500C,
Port Chester, NY 10573

Sheriff/Marshal:
Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

March 10, 2015

DATE

Hon. Verna Saunders, Civil Court Judge (NYC)
HON. VERNAL

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

— against —

LAURA MARRERO,
Defendant.

Index No. cv10035008bx

AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer

Movant's address:
1468 BRYANT AVE, Apt.
4B
BRONX, NY, 10450

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says:

1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. I WAS NOT SERVED I DID NOT RECIEVE ANY PAPER REGARDING THIS CASE AND I WAS BURNED OUT OF THIS RESIDENCE.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.
5. I have the following meritorious defense(s):
 - a. I do not owe the money.
 - b. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGANCY SHELTER I HAVE NO IDEA

Affidavit In Support of an Order to Show Cause to Vacate a Default Judgment
Made using the NYS Courts FREE DIY Forms

Page 1 of 2

WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL
I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW
YEARS LATER AFTER LIVING THEIR.

6. I want to tell the judge the following: I DONT BELIEVE I OWE THIS DEBT ME AND
MY FAMILY WERE BURBNED OUT OF THIS APARTMENT WE LOST
EVERYTHING YEARS LATER I AM BEING SUED MOVEING FOWARD THIS
GARNISHMENT HAS PUT A FINICAL HARDSHIP ON ME AND MY FAMILY.
7. I have not asked for a previous Order to Show Cause in this case.
8. My salary has been garnished. I am employed at ALLIED BARTON SECURITY
SERVICES LLC ATTN PAYROLL 161 WASHINGTON ST STE 600 8 TOWER
BRDG CONSHOHOCKEN PA 19428.

Relief

9. WHEREFORE, I request that the judge vacate any judgment, lift any and all
restraints and executions, order restitution, and upon vacatur, dismiss this case for
lack of personal jurisdiction, or in the alternative, deem the attached Proposed
Answer timely filed, restore the case to the calendar, grant me permission to serve
these papers myself, and grant me such other and further relief as may be just.

Laura Marrero
Laura Marrero, Defendant

Sworn to before me this MAR 10 2015 day
of

Notary Public or Court Clerk

✓	ID. Presented Type: <u>Notary</u>
	No ID. Provided

Affidavit in Support of an Order to Show Cause to Vacate a Default Judgment
Made using the NYS Courts FREE DIY Forms

Page 2 of 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly street reality Inc,
Plaintiff,

Index No. cv1003500Bbx

PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION

— against —

LAURA MARRERO,
Defendant.

Mover's address:
1488 BRYANT AVE, Apt.
4B
BRONX, NY, 10460

LAURA MARRERO, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I WAS BURNED OUT OF THIS APARTMENT RED CROSS PICKED MY FAMILY UP AND PUT US IN EMERGENCY SHELTER I HAVE NO IDEA WHY I AM BEING SUED AND NEVER FOUND OUT ABOUT THIS UNTIL I STARED BEING GARNISHED FROM MY PAY CHECK WHICH IS NOW YEARS LATER AFTER LIVING THEIR.
4. I have the following counterclaim(s): I WANT WHAT WAS GARNISHED. I am seeking \$3,000.

VERIFICATION

State of New York, County of Bronx ss.:

LAURA MARRERO, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Laura Marrero
Laura Marrero, Defendant

Sworn to before me this MAR 18 2015 day
of _____, 20____

Roberto Ace
Notary Public or Court Clerk

I.D. Presented Type: <u>NYSDJ</u>
No I.D. Provided

EXHIBIT 2

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
File No. 4778

-----X
KELLY STREET REALTY, INC.,

Plaintiff,

AFFIDAVIT

-against-

LAURA MARRERO,

Defendant.
-----X

STATE OF NEW YORK)
) SS
COUNTY OF BRONX)

I, Anto Lulaj, being duly sworn deposes and says:

1. I am the agent for the Plaintiff, KELLY STREET REALTY, INC., herein and, as such, I am fully familiar with the facts and circumstances of this proceeding as I am responsible for, *inter alia*, leasing of apartments, and overseeing maintenance of the property when required.

2. I was the agent during the time in issue of this proceeding.

3. The parties executed a lease agreement for the premises known as 928 Kelly Street, Unit 1, Bronx, New York, Plaintiff's building.

4. The term of the lease agreement was for two years commencing October 5, 2002 and ending October 14, 2004.

5. Almost immediately thereafter, Defendant began to accumulate rental arrears.

6. As such, Plaintiff commenced a nonpayment proceeding in Housing Court under the L&T Index No. 2898/2012.

7. Defendant vacated the subject premises on or about October 31, 2014 leaving a substantial rental arrears balance.

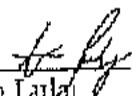
8. As such, Defendant owes Plaintiff the sum of \$22,838.92 representing rental arrears for the May, 2003 balance of \$625.70 and for the months of June, 2003 through and including October, 2004 at the agreed monthly rent of \$1,306.66.

9. My attorneys have advised me that judgment was entered against the Defendant and that we have been collecting on an income execution since December, 2012.

WHEREFORE, your deponent respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Sworn to before me this
7th day of April, 2015

Notary Public


Anto Lula

GARY KAVULICH
Notary Public, State of New York
No. 02KA6205615
Qualified in Westchester County
Commission Expires May 11, 2017

EXHIBIT 3

CONSUMER CREDIT TRANSACTION. THIS IS AN ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION OBTAINED WILL BE USED TO COLLECT THIS DEBT.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Kelly Street Realty, Inc.,
Plaintiff,

INDEX NO.
FILE NO. 4778

-against-

SUMMONS
Place of Venue is Plaintiff's
place of business:

Laura Maurero,

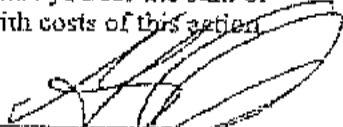
928 Kelly Street
Bronx, NY 10459

Defendant(s)

To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF
NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand
Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the
time provided by law as noted below and to file an answer to the below complaint with the
clerk: upon your failure to answer, judgment will be taken against you for the sum of
\$23,338.92 with interest thereon from May 1, 2003 together with costs of this action.

DATED: October 22, 2008


By: Gary Kavulich, Esq.,
Kavulich & Associates, P.C.
Attorney for Plaintiff
30 Church Street
Suite 26
New Rochelle, NY 10801
(914) 355-2074

Defendant's Address:

Laura Maurero
2303 Belmont Avenue, Apt. 5
Bronx, NY 10458-8343

Note: The law provides that: (a) If the summons is served by its delivery to you personally
within the City of New York, you must appear and answer within TWENTY days after such
service; or (b) If the summons is served by any means other than personal delivery to you
within the City of New York, you must appear and answer within THIRTY days after proof of
service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$22,838.92 representing rental arrears for the months of May, 2003 balance of \$625.70; June, 2003 through and including October, 2004 at the agreed monthly sum of \$1,306.66 for the premises known as 928 Kelly Street, Apt.#1 Bronx, NY 10459 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$0.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$22,838.92 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of 0.000 plus interest from May 1, 2003 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 100350/08
Filed: _____

Attorneys: Kayulich & Associates, P.C.

Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 4778

KELLY STREET REALTY INC.

vs.

LAURA MARRERO.

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On November 8, 2008 at 6:41p.m.

At 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458 served the within Summons and Complaint on: LAURA MARRERO. Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☐ By delivering a true copy of each to a person of suitable age and discretion
Said premises is recipients ☐ actual place of business ☐ dwelling house within the state.

Affixing to Door ☒ By affixing a true copy of each to the door of said premises, which is recipients
☐ actual place of business ☒ dwelling house (place of abode) within the state

Mail Copy ☒ On November 10, 2008 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a ☒ Claims properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

On the 5th day of November, 2008 at 9:45a.m.

On the 7th day of November, 2008 at 4:20p.m.

On the 8th day of November, 2008 at 6:41p.m.

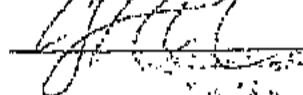
Description A description of the Defendant, or other person served on behalf of the Defendant
☒ Sex: _____ Color of skin: _____ Color of Hair: _____ Age: _____ Height: _____ Weight: _____

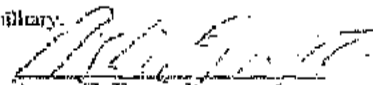
Military Svcs ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform.

Other

☒ "John Doe" neighbor stated that the Defendant is not in the military.

Sworn to before me on this 10 day of 11/08


Aston G. Evans II
Lic# 1230069


Aston G. Evans II
LIC# 1230069

Subscribed and sworn to before me on this 10 day of 11/08
at 2303 Belmont Avenue, Apt. 5, Bronx, NY 10458

EXHIBIT 4

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Court Index No. 10095009
File No. 4778.0

Kelly Street Realty, Inc.,

Plaintiff,

Against

Laura Marrero,

Defendant(s).

INCOME EXECUTION

The People of the State
of New York

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within court:

Court of Original Entry	Entry Date	Original Amount	Amount Due	Plus Interest From
CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX	2/26/2009 12:00:00 AM	\$38,318.67	\$38,318.67	2/26/2009 12:00:00 AM

The judgment was recovered against Laura Marrero
And transcribed with the county clerk(s) of Bronx defendant (judgment debtor)

WHEREAS, this execution is issued against Laura Marrero
Whose last known address is: 2803 Belmont Avenue
Apt. 6 Bronx, NY 10458-0945
and said defendant (judgment debtor) is receiving or will receive from the Employer whose name and address is:
Allied Barton Security Services LLC 151 Washington Street, Ste. 600 8 Tower Bridge
Conshohocken, PA 19438 ATTN: Payroll

More than 3 per week to wit 3 to be paid weekly installment of \$
\$12,772.89 and/or other fees. \$12,772.89
No 0876

You are directed to satisfy the judgment with interest together with your fees and expenses, out of all income now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR § 5231 & 16 U.S.C 1871, at the Disposition to Judgment Debtor: You are notified and commanded within 20 days after paying to the Enforcement Office serving a copy of this Income Execution on you (installments amounting to 10% but no more than the Federal limits set forth in 1. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income Execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Office.
Disposition to the Employer: You are commanded to withhold and pay over to the Enforcement Office serving a copy of this Income Execution on you (installments amounting to 10% but no more than the Federal limits set forth in 1. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expenses of this Income Execution are fully paid and satisfied.

Dated
9/26/2012

Gary Kavulich Esq.
Kavulich & Associates, P.C.
181 Westchester Avenue, Suite 5000
Port Chester, NY 10573
(914) 335-2074

* "Employer," herein, includes any payer of money to Judgment Debtor.

Important Statement

This income execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rules § 5231 and 16 United States Code § 1871 et seq.

I. Limitation on the amount that can be withheld

A. An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (10%) of the judgment debtor's gross income.

- B. If a judgment debtor's weekly disposable earnings are less than thirty (30) times the current federal minimum wage (\$5.85 per hour), or \$175.50* No deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot be reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$5.85* per hour), or \$175.50* under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's disposable earnings, no deduction can be made from the judgment debtor's earnings under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any order for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount, which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. Explanation of Limitations

Disposable Earnings - Disposable earnings is the net amount of a judgment debtor's earnings after deducting those amounts that are required by law, including for example, taxes, social security and unemployment insurance, but not deducting for union dues, insurance or other amounts.

Gross Income - Gross income is salary, wages or other income, including any and all overtime earnings, commissions, and income from work, before any deductions are made from such income.

Illustrations regarding earnings:

If disposable earnings is:

(a) 30 times federal minimum wage

is: (\$175.50*) or less

Amount to pay or deduct from earnings under this income execution

No payment or deduction allowed

(b) More than 30 times federal minimum wage (\$175.50*) and less than 40 times federal minimum wage (\$234.00*)

The less of the excess over 30 times the federal minimum wage (\$175.50*) in disposable earnings, or 10% of gross earnings.

(c) 40 times the federal minimum wage (\$234.00*) or more

The less of 25% of disposable earnings or 10% of gross earnings.

III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR § 5201 (c) and CPLR § 5240

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment.

If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged.

CPLR § 5201 (c) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

CPLR § 5240 Modification or protective order: supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure, including the use of income executions.

*Based upon \$1.25 minimum hourly wage. Recalculate and insert correct figures if the minimum hourly wage changes.

Endorsement:

Date and Time execution received:

Installments paid to _____ have satisfied the judgment to the extent of \$ _____

Principal and interest _____

Levering officer _____

County _____

Return to the judgment creditor or his attorney on _____ because of inability to

Find garnishee in the county.

Levering officer _____

County _____

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34
-----X

INDEX NO. 100350/08
FILE NO. 4778

KELLY STREET REALTY, INC.,

Plaintiff,

-against-

AFFIRMATION OF
SERVICE

LAURA MARRERO,

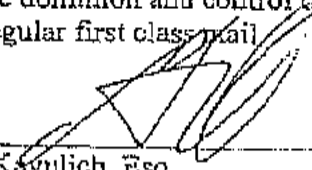
Defendant.
-----X

Gary Kavulich, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On April 10, 2015, I served the within Affirmation in Opposition upon the movant in this action, by depositing a true copy in a post-paid envelope addressed to:

Laura Marrero
1468 Bryant Ave., Apt. 4B
Bronx, NY 10460

in, an official depository under the exclusive dominion and control of the United States Postal Service within the State of New York via regular first class mail.



Gary Kavulich, Esq.

INDEX NO. 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: PART 34

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

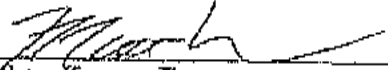
LAURA MARRERO,

Defendant.

AFFIRMATION IN OPPOSITION

Signature Rule 130-1.1-a

Print Name Beneath -


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorneys for Plaintiff
181 Westchester Ave., Suite 500C
Port Chester, NY 10573
(914) 355-2074

EXHIBIT 5

4778

Civil Court of the City of New York
County of BRX
Part 34

Index Number NV 100350-LS BX

Kelly Street Realty, Inc.
Claimant(s)/Plaintiff(s)/Petitioner(s)
against
Laura Marrero
Defendant(s)/Respondent(s)

DECISION/ORDER

Defendant moves the Court seeking to vacate the default judgment entered against her.

Defendant argues that she never received notice of the lawsuit and that she vacated the ~~apartment~~ subject premises due to a fire which resulted in her being placed in an emergency shelter by the Red Cross and being ultimately relocated.

Defendant further argues that she does not owe the debt in question because the tenancy at issue was subsidized by Section 8.

Plaintiff opposes the motion on the ground that defendant knowingly disregarded executive orders and lacks an equitable defense and equitable defense.

It is well-kitted that Clerk gave disposition in the matter. While the Court is not successful in the length of time which has

Date

Judge, Civil Court

page 103

9778

Civil Court of the City of New York
County of Brooklyn
Part 34

Index Number 01 100350 117 Px

Kelly Street Realty, Inc

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Marino

Defendant(s)/Respondent(s)

DECISION/ORDER

It appears since the judgment was entered, serious questions are raised regarding whether the debt here to wit, Rental arrears, are attributable to the defendant. Aside from the obvious troubling issue of a fire allegedly decimating the subject premises, Section 8 rules prohibit the tenant being charged for more than his/her "tenant share" of the rent.

Accordingly, the Court is satisfied that the defendant has failed to meet with an excusable default and incites the Court to warrant granting the instant order to show cause.

The judgment is vacated and any and all garnish or wage garnishments, bank restraints and execution, sheriff or marshal levies are vacated. Any sums collected in connection with the judgment shall be returned forthwith.

The answer arrived to the defendant's order to show cause

Date

Judge, Civil Court

CIV-157-1 (January, 1995)

Page 2 of 3

4770

Civil Court of the City of New York
County of PRINCE
Part 34

Index Number CV 100350-08 EX

Kelly Street Realty, Inc.

Claimant(s)/Plaintiff(s)/Petitioner(s)

against

Laura Haverill

Defendant(s)/Respondent(s)

DECISION/ORDER

is denied filed and interpreted in this matter and the
defendant may amend case within 30 days of the date of
this order.

The matter is restored to the calendar for a pre-trial
conference July 8, 2015 at 9:30 A.M. Defendant is to subpoena
Section 8.

Defendant shall serve a copy of this order with notice of entry
within 10 days by 1st class mail with certificate of mailing.
This constitutes the decision and order of the Court.

ENTERED
BRONX COUNTY

MAY 12 2015

Civil Court
of the
City of New York

Date

5/7/15

Judge, Civil Court

HON. VERNIA L. SAUNDERS

CIV-07-41 (January, 1999)

Page 2 of 3

INDEX NO: 100350/08

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

KELLY STREET REALTY, INC.,

Plaintiff,

- against -

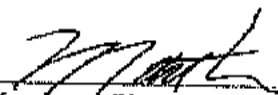
LAURA MARRERO,

Defendant.

ORDER TO SHOW CAUSE

Signature Rule 130-1.1-a

Print Name Beneath


Matthew Kasper, Esq.

Kavulich & Associates, P.C.
Attorney for Plaintiff
181 Westchester Ave., Suite 500-C
Port Chester, NY 10573
(914)355-2074

CASE SUMMARY

Court: Bronx County Civil Court
Index Number: CV-100350-08/BX
Case Type: Civil
Filed Date: 10/30/2008
Classification: Consumer Credit
Status: Disposed
Disposed Date: 02/26/2009
Disposed Reason: Judgment(1)-Default Judgment

Plaintiff(s):
KELLY STREET REALTY INC.
vs.
Defendant(s):
LAURA MARRERO

Cause(s) of Action: Breach of Contract or Warranty in the amount of \$23,338.92 with interest from 05/01/2003

- (P) KELLY STREET REALTY INC.
Kavulich & Associates PC - 181 Westchester Avenue, Suite 500C, Port Chester, NY 10574, (914) 353-2074 ext:
(D) LAURA MARRERO - 2303 BELMONT AVENUE, APT 5, BRONX, NY 10458

PAPERS RECORDED

10/30/2008 Summons and Complaint (Attorney), Filed By: (P) KELLY STREET REALTY INC.
02/23/2009 Judgment (Default Judgment), Seq 1, Filed Date: 02/23/2009, Total Judgment: \$33,318.67, Entered Date: 02/26/2009, Status: Entered
(02/26/2009), Creditor(s): (P) KELLY STREET REALTY INC., Debtor(s): (D) LAURA MARRERO

1253 Franklin Ave 3A
Bronx, NY 10456

This report reflects information recorded as of 03/10/2015 03:34 PM. Users should verify the accuracy of information by consulting original court records or sources. The Unified Court System is not responsible for consequential use of this data.

Civil Court of the City of New York
County of Bx 11
Part

Index Number CV-100350-CB/BX
Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

Kelly Street Realty, Inc.

Claimant(s)/Plaintiff(s)/Petitioner(s)
against

Laura Marrero

Defendant(s)/Respondent(s)

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

is as follows:

Plaintiff has failed to appear for trial. Case
dismissed for nonappearance.

In accordance with J. Verna Saunder's order,
dated May 12, 2015, all monies collected in connection
with the now vacated judgment shall be returned to
defendant forthwith.

ENTERED
BRONX COUNTY,
FEB 10 2016
Civil Court
of the
City of New York

2/10/16
Date

[Signature]
Judge, Civil Court

HON. SHANNON

Civil Court of the City of New York

CV 100350 -08

KELLY STREET REALTY INC
-against-
LAURA MARRERO



Pt 11

Comments	Notes
7/8/15 7/8/15 Confirmed Almond 9/16/16 pending motion to set aside	
Ray to 10/5/16 for trial PL 118 9/30/16 Dismissed after procedure was filed Motion to Dismiss Decided on 10/17/16 by Judge B. C.	
11/17/16 16g 10/10/13	
12/10/2015 11 Nov 2004 224 city hall 10001	
17 10 13 10 2016 09 13 00	
2/16/16 No attachment of PL 118 submitted	

LAURA MARRERO

PL 118 9/30/16

**Civil Court of the City of New York
851 Grand Concourse
Bronx, New York 10451**

Laura Warren
1468 Bryant Ave
Bronx New York 10460

CIV-GP-78 (Replaces 43-1006A)

PLEASE PRINT

Index No. C.U.-1003-50-08 Year

**Civil Court of the City
of New York**

County of

NOTICE

Filed papers may not be taken from this office and must be returned to the requisition counter.

PENAL LAW, Sections 175.20 and 175.25 provide a penalty of imprisonment or fine for unlawful removal or alteration of a public record.

against—

REQUISITION

SEND TO:

FOR:

Name Laura Marre ro

Address 1468 Bryant ave #4B

Date 3-10-2015